
Memorandum

To: Mayor, City Council, City Manager, Finance Director, City Law Director
From: Roxanne
Subject: General Information
Date: September 16, 2016

CALENDAR

AGENDAS

Saturday, September 17th

8:00 am – CIVIL SERVICE COMMISSION

9:00 am – SPECIAL CITY COUNCIL JOINT MEETING WITH HENRY COUNTY COMMISSIONERS at
Commissioners' Meeting Room

Monday, September 19th

6:00 pm – CITY TREE COMMISSION

6:30 pm – Ad-Hoc COMMITTEE ON ORGANIZATIONAL HEALTH

7:00 pm - CITY COUNCIL

C. APPROVAL OF MINUTES - from the September 6, 2016 Council Meeting

E. REPORTS FROM COUNCIL COMMITTEES

G. INTRODUCTION OF NEW ORDINANCES AND RESOLUTIONS

- 1. Ordinance No. 036-16**, an Ordinance Amending Ordinance No. 053-15, Passed November 15, 2015, an Ordinance to Adopt Chapter 194 of the Codified Ordinances of the City of Napoleon Regarding Income Tax for the Purpose of Adhering to the Changes Outlined in Senate Bill 172; and Declaring an Emergency. *(Suspension Requested)*
- 2. Ordinance No. 037-16**, an Ordinance amending the City of Napoleon Traffic Schedules, specifically Schedule II, "Parking Time Limits" on certain City streets as listed in the attached Exhibit A; and repealing Ordinance No. 032-11.
Enclosed is a Memorandum from Monica
- 3. Resolution No. 038-16**, a Resolution Authorizing the City Manager to Opt-In to the Bridge Inspection Program Services with the Ohio Department of Transportation ("ODOT") PID No. 102554; and Declaring an Emergency. *(Suspension Requested)* – please see the attached Memorandum from Monica.
- 4. Resolution No. 039-16**, a Resolution Authorizing the City Manager to Execute the Local Government Innovation Fund ("LGIF") between the State of Ohio Development Services Agency and the City of Napoleon; and Declaring an Emergency. *(Suspension Requested)* – Monica's Memorandum is attached.

H. SECOND READINGS OF ORDINANCES AND RESOLUTIONS

1. **Resolution No. 034-16**, a Resolution Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying them to the County Auditor for the 2016 Tax Duplicates Payable in Year 2017; and Declaring an Emergency.
2. **Resolution No. 035-16**, a Resolution Authorizing and Directing the Finance Director/Clerk to Certify and File Annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for Placement and Collection on the 2016 Tax Duplicates Payable in the Year 2017; and Declaring an Emergency.

I. THIRD READINGS OF ORDINANCES AND RESOLUTIONS

1. **Ordinance No. 029-16**, an Ordinance Repealing Resolution No. 051-13 which Authorizes the City Manager to Terminate or Assign the City of Napoleon's Water Purchase Agreement with the Village of Malinta, Ohio; and Declaring an Emergency.

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

1. **Discussion/Action:** Approval of the September 2016 Power Supply Cost Adjustment Factor as follows: PSCAF Three (3) month averaged factor: \$0.01329; JV2: \$0.010999; JV5: \$0.010999.
2. **Discussion/Action:** Approve Automatic Renewal of the Current Efficiency Smart Contract.
 - a. This was a recommendation from the Municipal Properties/ED Committee at their September 12, 2016 meeting; enclosed is a Memorandum from Monica with recommendation to continue with the automatic renewal
3. **Discussion/Action:** to recommend to City Council that the City put in a sidewalk as part of the Industrial Drive Project, with City match at 5%.
 - a. This too was recommended by the Municipal Properties/ED Committee. A Memorandum from Monica is also attached.
4. **Discussion/Action:** Approval of a \$100.00 Donation to the Fire Department for the Fire Safety House from the Ridgeville Township Volunteer Fire Department.

INFORMATIONAL ITEMS

1. **CANCELLATION – Parks & Recreation Committee**
2. September 16, 2016 Note Sale Bid Summary
3. Miscellaneous Information
 - a. From OML: The Broadband Imperative: Creating an Intelligent Ohio
 - b. From TMACOG: NW Ohio Broadband Information Session, Sept. 20
 - c. AMP Update/September 9, 2016
 - d. OML Legislative Bulletin/September 16, 2016
 - e. Napoleon Alive WinterFEST

September 2016

◀ Aug 2016

Oct 2016 ▶

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			August 31 6:30 pm Parks & Rec Bd	1	2	3
4	5 Labor Day Offices Closed	6 7:00 pm City Council	7	8	9	10
11	12 6:30 pm Electric Committee 6:30 pm Board of Public Affairs 7:00 pm Muni Prop/ED Comm	13	14	15	16	17 8:00 am Civil Service Testing 9:00 am Special Council Joint Mtg w/Commissioners
18	19 6:00 pm Tree Comm 6:30 pm Ad-Hoc Committee on Organizational Health 7:00 pm City Council	20	21	22	23	24
25	26 6:30 pm Finance & Budget 7:30 pm Safety & Human	27 4:30 pm Civil Service Comm	28 6:30 pm Parks & Rec Board	29	30 1:00 pm Healthcare Cost Committee Mtg	

City of Napoleon, Ohio

**CIVIL SERVICE COMMISSION
Special Meeting Agenda**

Saturday, September 17, 2016 at 8:00 am

Location: Napoleon Fire Department, 265 West Riverview Avenue, Napoleon, OH

The Civil Service Commission will meet in a work session on Saturday, September 17, 2016 at 8:00 am at the Fire Station, that is located at 265 West Riverview, Napoleon, Ohio. The agenda items are:

- I. Approve applicant for the Patrolman Civil Service test.
- II. Administer and grade the written test and agility test for the positions of Patrolman and Firefighter/Paramedic.
- III. Certify lists for the positions of Patrolman and Firefighter/Paramedic.
- IV. Any other matters to come before the Commission.
- V. Adjournment.

Gregory J. Heath
Finance Director/Clerk of Council

City of Napoleon, Ohio

CITY COUNCIL

Joint Special Meeting with the
Henry County Commissioners

LOCATION: Commissioner's Conference Room, 1853 Oakwood Avenue, Napoleon, Ohio

AGENDA

Saturday, September 17, 2016 at 9:00 am

1. CCNO Trustees
2. CIC Goals
3. Senior Center Building Update

Gregory J. Heath
Finance Director/Clerk of Council

City of Napoleon, Ohio

TREE COMMISSION

Meeting Agenda

Monday, September 19, 2016 at 6:00 pm

LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

- I. Approval of Minutes from August 15, 2016(*In the absence of any objections or corrections, the Minutes shall stand approved.*)
- II. Review Tree Call Reports
- III. Fall Removals Update
- IV. Award Fall Planting Contract
- V. Award Fall Trimming Contract
- VI. Begin Spring Plantings List
- VII. Review Next Year's Budget/Plans
- VIII. Any other matters to come before the Commission
- IX. Adjournment

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio
TREE COMMISSION
Meeting Minutes
Monday, August 15, 2016 at 6:00pm

PRESENT	
Commission	David Volkman-Chair, Bill Rohrs, Kirk Etzler, Jim Fitzenreiter, Joe Bialorucki–Council Representative (arrived at 6:40 pm)
City Staff/Recorder	Marty Crossland
ABSENT	
Members	Ed Clausing
Call To Order	Chairman Volkman called the meeting to order at 6:00 pm.
Amend Minutes	Jim: in second paragraph under “Tree Call Report” amend word “replace” with “remove”
Approval of Minutes as Amended	Minutes from July 18, 2016 were approved as amended.
Tree Call Report	<p>Crossland reviewed the current list, since the last meeting have added: 1103 Stevenson, for some reason top half on every single maple on that block is dying; 838 Hobson had an ash tree removed several years ago and a pear tree removed a couple of years ago and asked when he would get some trees planted to replace the ones taken out, discussed waiting until after waterline project is completed, if approved in 2017 budget; 712 Daggett-Nick Rohrs replant small tree.</p> <p>Crossland informed the committee he does a drive-thru around town twice a year, once in the summer and again in the winter to observe the health of the trees. Trees on Stevenson, West Washington and Scott are severely stressed from the hot dry weather.</p> <p>There are two (2) trees at 240 West Maumee that are damaged from a car and one at 508 Hobson that is extremely close to the drive and believe the roots were damaged when drive and approach was replaced in early 2000’s.</p> <p>Etzler said the tree on Washington, across from the Hahn Center, looks like the tree is growing into the grate, need to have grates removed.</p> <p>Crossland said the Electric Department is taking care of trees that were putting pressure on the wires. The Parks Department has talked to me about replacing the pear trees, some are starting to look not too great due to extremely hot dry weather we are having.</p> <p>The tree by the Senior Center has damage to the trunk, do not know if that was done when planted or at the nursery. The tree is leaning but can be staked,</p>

needs to be centered in the hole, have the same issue with a couple other trees, only been planted about a year and a half.

Volkman noticed ones downtown by Circle K and MKats are dying.

Crossland said trimmed one out at Circle K and appears to be okay now, other two are totally dead.

Fitzenreiter suggested walking sidewalks where tree are looking for potential hazards.

Etzler discussed damage to new plantings from mulch being piled up around, weed whipped up too close against the tree or from kids hanging on the trees.

Fitzenreiter asked if there is a course of action when someone abuses City property.

Crossland advised there were a couple of instances where people were charged for damage when was documented and know who had done the damage.

Etzler asked if trees that have been topped out if that will affect the younger trees.

Fall Plantings List

There is a small number of trees on the Fall Planting List this year. Letters were sent out to people to give them a chance to opt in our out, they have another week or so to get a hold of me. Mr. Wenner opted out, why his address and trees are not on the list. There is one at the boat ramp (a red-bud, one of the five planted a few years ago did not make it) other two tried to pick out something for around that playground, have taken out a mulberry and box-elders leaving the area wide open now.

Fall Trimming List

This list is basically the same as the planting list. I did add Jim Bernicke's trees. Goal is to trim out the dead.

Volkman said it is good our trimming list is longer than the removals.

Etzler asked Crossland if he drives the alleys too.

Crossland said the Electric Department monitors the alleys with power lines. The unimproved alleys are just grass, people should not be driving down those our street departments guys keep some of the nuisances back on those.

Award Fall Removal Contract

Crossland advised the tree removal bids were opened today. You will see on the bid sheet we received three (3) bids (bid proposal summary sheet is attached)with Saylor being the apparent low at \$3,575.00, Auglaize second at \$3,830.00 and A Cut Above the Rest at \$7,740.00

Fitzenreiter discussed if automatically go with the lowest bid and Crossland said mostly if have not had any issues with the contractor.

My biggest complaint with Saylor and Auglaize is their lack of PPE's, I've seen their hard hats hanging in the trucks.

Volkman asked if something happens, have they have been told.

Crossland said "yes" and there is a hold harmless clause in every proposal and contract and they have workmen's comp and liability/bodily insurance.

If you so choose, can send award letters tomorrow.

We are good.

Crossland I do expect a second small bill from Saylor had him come in and take two (2) trees down, one was for sidewalk replacement thru Maumee Valley and other on Dodd Street both were on the fall list had to push ahead to get done for Dodd Street project, did not want to grind out stump after road repair was done.

Award Fall Topsoil Contract

For the topsoil only one that responded was North Branch Nursery, kinda changed proposal wording usually bid \$2,500 lowered to \$2,000 due to amount of work we have. So, they were actually bidding on how many can do for this amount. North Branch proposed could do 32 holes for \$2,000 out of 46 on the list. North Branch has done very good work for us in the past.

Volkman asked if going to contact tomorrow

Crossland said "yes" have letters ready to mail out tomorrow so if you are fine

Everyone - Yea

Crossland, the removals are to be done by October 1st there are not that many trees on the list. Seeding and Topsoil to be done by September 17th.

Monitor Summer Watering List

The Parks guys have been watering fairly frequently, are losing staff member and unsure if will be able to water well in September. Usually pull the bags by the end of September it might be more like three weeks from now. Tom Ashbaugh doesn't really want to but if don't have guys to do the work.

Bialorucki- my thought is to keep the bags, need to look at what is cost of replacing trees vs. paying overtime to water.

Fitzenreiter commented he would tend to leave the bags until normal time when they are pulled. Maybe something will change and there will be someone to water.

Crossland will talk to Tony Cotter and see if can work something out.

Etzler said if worse comes to worse can make service project to have kids help out.

Service Requests to be Completed



Filters:

*Date Inspected is not blank and Date Resolved is blank
Sort Order: [Date Received (descending), Address/Location]

Address/Location	Caller	Caller Address	Phone 1	Phone 2	Request Type	Pri	Received Date	By	Inspection Date	By	Age	Request ID
712 Daggett Dr.	Nick Rohrs	712 Daggett Dr.	(419) 438-3686		Plant	2	08/03/16	MTC	08/03/16	MTC	12 days	355
Caller Comments: Storm damaged pear tree was removed, would like it replaced.												
Inspector Comments: Replant in 2017. Tree was Redspire Pear. May look into other species?												
838 Hobson St.	George Pivnika	838 Hobson St.	(419) 592-1230		Plant	2	08/02/16	MTC	08/03/16	MTC	13 days	354
Caller Comments: Would like tree(s) planted if possible.												
Inspector Comments: Waterline job scheduled for 2017, may replant with 2 Bur Oak after.												
1103 Stevenson St.	City of Napoleon	255 W. Riverview Ave.	(419) 592-4010		Plant	-	08/02/16	MTC	08/02/16	MTC	13 days	353
Caller Comments: Upper half of both trees are dead.												
Inspector Comments: Remove and replant with Deborah Norway Maples.												
509 W. Clinton St.	Byrde Thielman	509 W. Clinton St.	(419) 599-1117		Remove	2	07/14/16	MTC	07/14/16	MTC	32 days	351
Caller Comments: Tree has a lot of dead branches and dropped a few in the yard recently. Would like it removed.												
Inspector Comments: Tree roots were cut on both sides a few years ago for a sewer project. Signs are just now showing up from that. Remove with a replant.												
515 W. Clinton St.	Marty Crossland		(419) 592-4010		Remove	2	07/14/16	MTC	07/14/16	MTC	32 days	352
Caller Comments: Noticed severe dieback on the Norway Maple probably due to roots being cut during a sewer project in the recent past. Should look to remove and replant.												
Inspector Comments: Remove and replant.												
923 N. Perry St.	City of Napoleon				Remove	2	06/07/16	MTC	06/07/16	MTC	69 days	346
Caller Comments:												
Inspector Comments: Crimson King Norway Maple is mostly dead. Recommend removal with replant.												
204 Brownell Ave.	William Wolpert	204 Brownell Ave.			Remove	2	05/31/16	MTC	05/31/16	MTC	76 days	345
Caller Comments: Talked to electric department trimming crew about having large tree in front of house removed. It creaks in the wind and drops some limbs, it is also heaving sidewalk.												
Inspector Comments: Tree is heaving sidewalk some and there appears to be some deadwood towards the house.												
853 W. Graceway Dr.	Elizabeth Armbruster	853 W. Graceway Dr.	(419) 438-4964		Remove	1	05/09/16	MTC	05/09/16	MTC	98 days	348
Caller Comments: Tree in alley behind house is growing into their fence. Would like tree removed. Call Steve at 419-966-4118 (or stop in at Autozone) to remove fence.												
Inspector Comments: Tree base is growing around corner post and is pushing on bottom of fence. Remove with no replant.												
1029 N. Perry St.	Irma Rohrs	1029 N. Perry St.	(419) 592-6443		Topsoil/Seeding	2	05/06/16	MTC	05/06/16	MTC	101 days	349
Caller Comments: Area where tree was removed has sunken and would like it filled and seeded.												
Inspector Comments: Place on fall 2016 holes list.												

**2016 FALL TREE PROGRAM
 BID PROPOSAL SUMMARY**

Removals & Topsoil – August 15, 2016 11:00am, Trimming & Plantings - September 19, 2016 at 11:00 am

<i>Contractor</i>	<i>Tree & Stump Removal</i>	<i>Tree Trimming</i>	<i>Tree Planting</i>	<i>Topsoil & Seeding</i>
A Cut Above the Rest Tree Service	\$7,740.00	Hourly Rate: N/A	N/A	N/A
All Seasons Tree Care	N/A	Hourly Rate:	N/A	N/A
Auglaize Tree Service	\$3,830.00	Hourly Rate: N/A	N/A	N/A
DeMuth Nursery	N/A	Hourly Rate: N/A		N/A
Exseed Landscaping	N/A	Hourly Rate: N/A	N/A	No Bid
Neville Landscape & Tree Service	N/A	Hourly Rate: N/A		N/A
North Branch Nursery	N/A	Hourly Rate: N/A		\$2,000.00 32 Holes
Northwest Landscaping	N/A	Hourly Rate: N/A	N/A	No Bid
Saylor Tree Service	\$3,575.00	Hourly Rate: N/A	N/A	N/A
Tawa Tree Service	N/A	Hourly Rate:	N/A	N/A
Fall 2016 Totals:	\$3,575.00	\$0.00	\$0.00	\$2,000.00 32 Holes

2016 Fall Tree Planting

Item	House No.	Street Name	Number of Trees	Species & Cultivar	Estimated Bid Price	Description
1	927	W. Washington St.	One (1) Tree	Maple, Red - Red Sunset	\$ 200.00	on Orwig St.
2	229	Kolbe St.	One (1) Tree	Oak, Red	\$ 205.00	
3	1012	Stevenson St.	One (1) Tree	Maple, Norway - Deborah	\$ 200.00	
4	909	N. Perry St.	One (1) Tree	Linden, American - Redmond	\$ 200.00	2" Stump Remains
5		Scott St.	One (1) Tree	Serviceberry - Robin Hill	\$ -	Warrantee (NBN)
6		Boatramp	One (1) Tree	Redbud, Eastern	\$ 200.00	2" Tree remains, on hillside
7		E. Riverdowns Park	Two (2) Trees	Elm, Jefferson & Beech, European - Purple	\$ 400.00	Around Playground off E. Front St
8						
9						
10						

Total

8

\$1,405.00

Estimated (Padded)

\$ 1,500.00

2016 Fall Tree Trimming

Item	House No.	Street Name	Number of Trees	Description
1	1130	Becca Ln.	Two (2) Trees	Trim Dead Branch Tips (Blight)
2	1041	Reynolds St.	One (1) Tree	Remove Dead Leader Towards Street
3	1035	Willard St.	One (1) Tree	Trim Lower Limbs Towards Street
4		Highland Ave. (LaGrange St. to Ohio St.)	Seventeen (17) Trees	Crown Cleaning, Young Tree Training, Crown Raising
5		N. Sheffield Ave. (Woodlawn Ave. to LaGrange St.)	Twenty-Eight (28) Trees	
6		Michigan Ave. (LaGrange St. to Woodlawn Ave.)	Five (5) Trees	
7		Indiana Ave. (Woodlawn Ave. to LaGrange St.)	Fifteen (15) Trees	
8		Ohio St. (Glenwood Ave. to Reynolds St.)	Thirty (30) Trees	
9		LaGrange St. (Scott St. to Indiana Ave.)	One (1) Tree	
10		Richmar Ln. (Indiana Ave. to Dead End)	Six (6) Trees	
11		Harmony & N. Harmony Dr. (Glenwood Ave. to Glenwood	Fourteen (14) Trees	
12		Glenbrook Ct. (Cul-de-sac to Harmony Dr.)	Six (6) Trees	
13		Westwood Ave. (Harmony Dr. to N. Harmony Dr.)	One (1) Tree	
14		Melody Ln. (Harmony Dr. to N. Harmony Dr.)	One (1) Tree	
15		Dodd St. (Scott St. to Cul-de-sac)	Fourteen (14) Trees	
16		N. Perry St. (Yeager St. to Shelby Ave.)	Forty-Four (44) Trees	
17		Knape St. (N. Perry St. to alley)	One (1) Tree	
18		North St. (N. Perry St. to Oakwood Ave.)	Two (2) Trees	
19		Detroit Ave. (Yeager St. to Dead End)	Fifteen (15) Trees	
20		Yeager St. (Dodd St. to Oakwood Ave.)	Four (4) Trees	
21		Union St. (Oakwood Ave. to Dead End)	Six (6) Trees	
22		Oakwood Ave. (N. Perry St. to Lakeview Dr.)	Thirteen (13) Trees	
23		Northcrest Dr. (Oakwood Ave. to Derome Dr.)	Thirteen (13) Trees	
24		Northcrest Cr. (Northcrest Dr. to Cul-de-sac)	One (1) Tree	
25		Derome Dr. (Northcrest Dr. to Northcrest Dr.)	Ten (10) Trees	
26		Old Creek Dr. (Oakwood Ave. to Dead End)	Five (5) Trees	
27		Fair St. (Oakwood Ave. to Dead End)	Four (4) Trees	
28		Lakeview Dr. (Oakwood Ave. to Cul-de-sac)	Four (4) Trees	
29		Bauman Pl. (Lakeview Dr. to Cul-de-sac)	Seven (7) Trees	
30		Monroe St. (Oakwood Ave. to E. Riverview	Fourteen (14) Trees	
31		Hobson St. (E. Riverview Ave. to Oakwood	Thirty-Three (33) Trees	
32		Maple St. (Depot St. to E. Clinton St.)	Eighteen (18) Trees	

208

330

City of Napoleon, Ohio

AD-HOC COMMITTEE ON ORGANIZATIONAL HEALTH

Meeting Agenda

Monday, September 19, 2016 at 6:30 pm

LOCATION: Council Chambers, 255 West Riverview Avenue, Napoleon, Ohio

1. Discussion regarding Governance based on Survey Results.
2. Any other matters currently assigned to the Committee.
3. Adjournment.

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio
Ad Hoc Committee On Organizational Health
Meeting Minutes
August 15, 2016 at 6:00 pm

PRESENT

**Members
City Staff**

Travis Sheaffer – Chair, Dan Baer, Joe Bialorucki
Monica Irelan, City Manager
Gregory Heath, Finance Director/Clerk of Council
Lisa Nagel, Law Director
Clayton O’Brien, Fire Chief

**Recorder
Others**

Kristi Rhoads
Newsmedia

ABSENT

None

Council President Sheaffer created the Ad Hoc Committee on Organizational Health at the August 1, 2016 regular meeting of City Council, and appointed himself as the Chair of the Committee.

Call To Order

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

**Discussion Regarding
City Organizational
Health by City Manager**

Irelan summarized the survey results on governance (copy attached), she feels we need to focus on community engagement. Travis asked how we can make our citizens feel more welcome. Irelan said in previous communities she worked in they did a Citizens Academy where once a year for a month you meet on every Tuesday and a different topic/departments are covered each week. Baer asked what the cost would be. Irelan said it would depend on how you structured it, approximately \$500 that would include dinner and a plaque at the end of the class, she suggested limiting the class to thirty people or less. Sheaffer asked how much time would be involved. Irelan said we would not have to reinvent the wheel as other communities have already done this program, the first time would be the most expensive. Is this something you would want to set as a 2017 goal. Baer said he liked the idea if it would fit in the budget. He also suggested you could possibly do an information flyer you could put in with the bills. He is going to meet with the high school government teacher about setting up a program for government student of the month and the students could a Council Meeting and meet with Department Head of a department they are interested in, would affect Juniors and Seniors but will may back to the rest of the family, this would be another option. Sheaffer said we should start with value of services and possibly start academy in 2017. Irelan feels people would appreciate curbside waste pickup services, there are some exceptions she is not sure what they are. Baer said it would nice on the other hand the most important is financially. Irelan said she will

City of Napoleon, Ohio

CITY COUNCIL

Meeting Agenda

Monday, September 19, 2016 at 7:00 pm

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

- A. Attendance** (*Noted by the Clerk*)
- B. Prayer & Pledge of Allegiance**
- C. Approval of Minutes: September 6, 2016** (*In the absence of any objections or corrections, the minutes shall stand approved.*)
- D. Citizen Communication**
- E. Reports from Council Committees**
 - 1. Technology Committee** did not meet on September 6, 2016 due to lack of agenda items.
 - 2. Electric Committee** met on September 12, 2016 and recommended:
 - a. Approval of the September 2016 Power Supply Cost Adjustment Factor
 - b. Review of Net Metering Policy (Remained Tabled)
 - c. Approved Automatic Renewal of the Efficiency Smart Contract
 - 3. Water/Sewer Committee** did not meet on September 12, 2016 due to lack of agenda items
 - 4. Municipal Properties/ED Committee** met on September 12, 2016 and recommended:
 - a. Removed from the agenda *Review of CIC Agreement.*
 - b. Reviewed of Goals of the CIC.
 - c. To Recommend to City Council that the City put in a Sidewalk as part of the Industrial Drive Project, with City Match at 5%.
 - 5. Parks and Recreation Committee** did not meet tonight due to lack of agenda items.
 - 6. Ad-Hoc Committee on Organizational Health** met tonight and discussed:
 - a. Governance based on Survey Results
- F. Reports from Other Committees, Commissions and Boards** (*Informational Only-Not Read*)
 - 1. Civil Service Commission** met on September 17, 2016 with the following agenda items:
 - a. Approve applicant for the Patrolman Civil Service test.
 - b. Administer and grade the written test and agility test for the positions of Patrolman and Firefighter/Paramedic.
 - c. Certify lists for the positions of Patrolman and Firefighter/Paramedic.
 - 2. Tree Commission** met tonight with the following agenda items:
 - a. Review Tree Call Reports
 - b. Fall Removals Update
 - c. Award Fall Planting Contract
 - d. Award Fall Trimming Contract
 - e. Begin Spring Plantings List
 - f. Review Next Year's Budget/Plans
- G. Introduction of New Ordinances and Resolutions**
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4. **Discussion/Action:** Approval of a \$100.00 Donation to the Fire Department for the Fire Safety House from the Ridgeville Township Volunteer Fire Department.

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, October 3, 2016 @6:15 pm)
- 2. Electric Committee (2nd Monday)**
(Next Regular Meeting: Monday, October 10, 2016 @6:30 pm)
 - a. Review of Power Supply Cost Adjustment Factor for October, 2016
 - b. Electric Department Report
 - c. Review of the Net Metering Policy (Remained Tabled)
- 3. Water, Sewer, Refuse, Recycling & Litter Committee (2nd Monday)**
(Next Regular Meeting: Monday, October 10, 2016 @7:00 pm)
- 4. Municipal Properties, Buildings, Land Use & Economic Development Committee (2nd Monday)**
(Next Regular Meeting: Monday, October 10, 2016 @7:30 pm)
 - a. Updated Info from Staff on Economic Development (as needed)
- 5. Parks & Recreation Committee (3rd Monday)**
(Next Regular Meeting: Monday, September 19, 2016 @6:15 pm)
- 6. Finance & Budget Committee (4th Monday)**
(Next Regular Meeting: Monday, September 26, 2016 @6:30 pm)
- 7. Safety & Human Resources Committee (4th Monday)**
(Next Meeting: Monday, September 26, 2016 @7:30 pm)
2016 Regular Meetings with Townships scheduled for February and November
- 8. Personnel Committee (as needed)**
- 9. Ad Hoc Committee on Strategic Vision (as needed)**
- 10. Ad Hoc Committee on Organizational Health (as needed)**
(Next Meeting: Monday, September 19, 2016 @6:30 pm)

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

- 1. Board of Public Affairs (2nd Monday)**
(Next Regular Meeting: Monday, October 10, 2016 @6:30 pm)
 - a. Review of Power Supply Cost Adjustment Factor for October, 2016
 - b. Electric Department Report
 - c. Review of Water Plant Upgrade Project and Estimated Cost.
 - d. Review of Water Rates Related to Water Plant Upgrade Project.
- 2. Board of Zoning Appeals (2nd Tuesday)**
(Next Regular Meeting: Tuesday, October 11, 2016 @4:30 pm)
- 3. Planning Commission (2nd Tuesday)**
(Next Regular Meeting: Tuesday, October 11, 2016 @5:00 pm)
- 4. Tree Commission (3rd Monday)**
(Next Regular Meeting: Monday, September 19, 2016 @6:00 pm)
- 5. Civil Service Commission (4th Tuesday)**
(Special Meeting: Saturday, September 17, 2016 @8:00 am)
 - a. Civil Service Exam: Police Officer and Firefighter/Paramedic
(Next Regular Meeting: Tuesday, September 27, 2016 @4:30 pm)
- 6. Parks & Recreation Board (Last Wednesday)**
(Next Regular Meeting: Wednesday, September 28, 2016 @6:30 pm)
- 7. Privacy Committee (2nd Tuesday in May & November)**
(Next Regular Meeting: Tuesday, November 8, 2016 @10:30 am)
- 8. Records Commission (2nd Tuesday in June & December)**
(Next Regular Meeting: Tuesday, December 13, 2016 @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. Volunteer Peace Officers' Dependents Fund Board** (as needed)
- 16. Lodge Tax Advisory & Control Board** (as needed)
- 17. Board of Building Appeals** (as needed)
- 18. ADA Compliance Board** (as needed)
- 19. NCTV Advisory Board** (as needed)

City of Napoleon, Ohio

CITY COUNCIL

Meeting Minutes

Tuesday, September 06, 2016 at 7:00 pm

PRESENT

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

Patrick McColley—President Pro Tem, Jeff Comadoll, Rita Small, Dan Baer, Joe Bialorucki, Jeff Mires
Jason Maassel
Lisa L. Nagel
Gregory J. Heath

Roxanne Dietrich
Robert Weitzel, Police Chief
Clayton O'Brien, Fire Chief
Chad Lulfs, Director of Public Works
Dan Wachtman, MIS Administrator

Others

News Media

ABSENT

Council
City Staff

Travis Sheaffer, Council President
Monica Irelan, City Manager

Call To Order

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

Approval of Minutes

Minutes of the August 8, 2016 Special Council meeting stand approved as read with no objections or corrections.

Approval of Minutes

Minutes of the August 15, 2016 Council meeting stand approved as read with no objections or corrections.

Citizen Communication

None

Committee Reports

Chairman Mires reported that the Finance & Budget Committee met on Monday, August 22, 2016 and recommended addition .3% on the Income Tax for Design, Engineering and Construction for Capital Maintenance of City Streets and Roads.

The Technology & Communication Committee did not meet on Tuesday, September 6, 2016 due to lack of agenda items.

The Safety and Human Resources Committee did not meet on Monday,

August 22, 2016 due to lack of agenda items.

**Introduction of
Resolution No. 030-16**

President Pro-Tem McColley read by title Resolution No. 030-16, a Resolution Authorizing the Expenditure of Funds over Twenty-five Thousand Dollars (\$25,000.00) for the Purpose of Purchasing and Installing a Power Cot System and Power Load System for an Ambulance, and to Sole Source said Purchase to Stryker EMS Equipment and Installation to Insta-A-Tech, LLC; and Declaring an Emergency. (Suspension Requested)

**Motion to Approve First
Read**

Motion: Comadoll Second: Mires

Discussion

Fire Chief O'Brien said at budget time we asked to add the power cot load system E-medic 801 or 802 backup squad non-emergency part of our 400 account. Stryker EMS system are the ones who manufacture lot and load system and will do installation. Mayor Maassel asked there is no reason to bid this out and Chief O'Brien replied that the pricing is actually under state bid contract.

**Motion to Suspend the
Rules**

Motion: Comadoll Second: Small
To suspend the Rules requiring three Readings

**Passed
Yea-6
Nay-0**

Roll call vote on above motion:
Yea - Small, McColley, Comadoll, Baer, Mires, Bialorucki
Nay-

**Passed
Yea-6
Nay-0**

Roll call vote to pass Resolution No. 030-16 under Suspension of the Rules and Emergency.
Yea - Small, McColley, Comadoll, Baer, Mires, Bialorucki
Nay-

**Introduction of
Resolution No. 031-16**

President Pro-Tem McColley read by title Resolution No. 031-16, a Resolution Authorizing the City Manager to Execute all Documents Necessary to Apply and Accept Ohio Public Works Commission State Capital Improvement Program (SCIP) and Local Transportation Improvement Program (LTIP) Funds for Projects deemed Necessary by the City Engineer in the Year 2017; and Declaring an Emergency. (Suspension Requested)

**Motion to Approve First
Read**

Motion: Comadoll Second: Mires
To approve First Read of Resolution No. 031-16

Discussion

Lulfs said every year we apply for the Issue II Grant. As of now the

project most qualified will be the Haley Avenue Sanitary Sewer Improvements. This legislation will allow the City Manager to sign the application forms that are due this Friday, September 9, 2016.

Motion to Suspend the Rules

Motion: Comadoll Second: Mires
To suspend the Rules requiring three Readings

Passed
Yea-6
Nay-0

Roll call vote on above motion:
Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki
Nay-

Passed
Yea-6
Nay-0

Roll call vote to pass Ordinance No. 031-16 under Suspension of the Rules and Emergency.
Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki
Nay-

Introduction of Ordinance No. 032-16

President Pro-Tem McColley read by title Ordinance No. 032-16, an Ordinance Providing for the Issuance and Sale of Notes in the Maximum Principal Amount of \$1,400,000, in Anticipation of the Issuance of Bonds, for the purpose of Paying the Costs of Improving the Municipal Water System by Improving and Rehabilitating the Existing Water Treatment Plant and Related Storage Facilities, Rehabilitating the Elevated Storage Tanks; and Acquiring and Improving Related Interested in Real Property, Together with all Necessary and Related Appurtenances thereto; and Declaring an Emergency. (Suspension Requested)

Motion to Approve First Read

Motion: Comadoll Second: Bialorucki

Discussion

Heath said funding is needed to replenish the balance originally used to encumber the \$1.4 Million from the reserves of the water revenue fund with the intent, at least by this time, was to have a firmer handle on our long term funding which we don't have quite yet. Short term notes maturity date will match maturity date on \$2.5 million issued in March and then if needed, that note again will roll at that point and time. Hopefully the City will have our long term financing, at least know what going to do, by end of the year. This is a temporary short term and suspension is requested to move forward.

Motion to Suspend the Rules

Motion: Comadoll Second: Mires
To suspend the Rules requiring three Readings

Passed
Yea-6

Roll call vote on above motion:
Yea-Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-0

Passed

Yea-6

Nay-0

**Introduction of
Resolution No. 033-16**

**Motion to Approve First
Read**

Discussion

**Motion to Suspend the
Rules**

Passed

Yea-6

Nay-

Roll call vote to pass Ordinance No. 032-16 under Suspension of the Rules and emergency.

Yea-Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-

President Pro-Tem McColley read by title Resolution No. 033-16, a Resolution Imposing a Temporary Moratorium on Medical Marijuana Cultivation, Processing and Retail Dispensary Facilities within the City of Napoleon, Ohio; and Declaring an Emergency. (Suspension Requested)

Motion: Bialorucki Second: Baer

Nagel said other municipalities are discussing this particular issue the Ohio House just recently passed Ohio House Bill No. 523 that has to do with regulation cultivating, processing and retail dispensing of medical marijuana. Since House Bill has been passed, specific regulations still need to be processed and passed by the Ohio Department of Commerce none of those regulations are in place now. All have been advising their Council to pass moratorium and let the Ohio Department of Commerce and Department of Pharmacies finalize these regulations before are actually in place. We are not legalizing medical marijuana, only has to do with zoning regulations.

McColley said he had a number of questions and from what the Law Director explained there is a little bit of a gap between legalization and instituting final rules mostly to get us to point where State Board of Pharmacy issues those rules and we can do homework on zoning side. Nagel said reason for suspension is House Bill goes into effect on the 8th. The Department of Pharmacy is not expected to have anything in place for a year. Mayor asked temporary moratorium for a year and Nagel replied legislation would give us the moratorium for a year. Baer asked is it true that state is only going to allow certain places to do this instead of everybody and anybody. Nagel responded that is what they are finalizing and why advising it be passed. McColley asked if this is just for zoning and Nagel replied correct.

Motion: Small Second: Comadoll
To suspend the Rules requiring three Readings

Roll call vote on above motion:

Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-0

Nay-

Passed

Roll call vote to pass Resolution No. 033-16 under Suspension of the Rules and Emergency.

Yea-6

Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-0

Nay-

**Introduction of
Resolution No. 034-16**

President Pro-Tem McColley read by title Resolution No. 034-16, a Resolution Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying them to the County Auditor for the 2016 Tax Duplicates Payable in Year 2017; and Declaring an Emergency.

**Motion To Approve First
Read**

Motion: Comadoll Second: Small

Discussion

Heath said an earlier resolution was passed setting rates for inside mills at 2.9 to the County Auditor, he then certifies back the rates we established, now we need to certify them back to the County Auditor for collection and that has to be back on or before October 1, 2016. Only requesting first read tonight.

Passed

Roll call vote to approve first read of Resolution No. 034-16:

Yea-6

Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-0

Nay-

**Introduction of
Resolution No. 035-16**

President Pro-Tem McColley read by title Resolution No. 035-16, a Resolution Authorizing and Directing the Finance Director/Clerk to Certify and File Annual Special Assessments of the City of Napoleon, Ohio, with the County Auditor of Henry County for Placement and Collection on the 2016 Tax Duplicates Payable in the Year 2017; and Declaring an Emergency.

**Motion to Approve First
Read**

Motion: Comadoll Second: Bialorucki
To Approve First Read of Resolution No. 035-16

Discussion

Heath said in the actual attachment handed out tonight (attached hereto) annually do assessments established from prior years ago has to be to county auditor by October 1, 2016 for 2016 collection tax year received in 2017. Only requesting first read tonight.

Passed

Roll call vote to approve First Read of Resolution No. 035-16

Yea-6

Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-0

Nay-

Nay-0

**Motion To Add .3% on the
Income Tax for Design,
Engineering and
Construction for Capital
Maintenance of City
Streets and Roads**

Discussion

Nay-

This is the Finance and Budget Committee's recommendation to Council.

McColley said we talked about just for design, engineering and construction. People have approached me about fairness of .3% and not having people who work out of the city pay. I am rethinking after the committee meeting property tax would be more fair than income tax, more fair tax to everybody. Baer said I do not care what direction we go my number one concern is that we really need to make sure all the information is given out to the public, whether it is by utility bill, newspaper article, web page, radio interviews or a public meeting we need to make every possible effort to let the public know why we are doing and what they are going to get from this no matter which way go. McColley said we talked about \$800,000, what is the right amount? From the survey results, the public recognizes our streets are not in good shape that is something they see every day, now what direction is fairest way to do but you are right need to notify public. The Mayor agreed, we need to make sure when we do these projects that it is well known to the community this project is funded by our \$800,000. Lulfs commented he had talked to the City Manager and it is my understanding if we proceed with income tax would need to be voted on by the public, if we do not inform the public as well as possible, it will not pass no matter which route we go to notify them. The Mayor asked if this will replace what we already do have to average what have done for the last five (5) years how much been spending. Lulfs said we more than doubled our budget this year for additional paving and from the comments I received, it was noticed by the public and they want it. Mayor Maassel read an email he received the morning after the Finance & Budget Committee meeting (copy of email is attached). He asked if the survey results asked for income tax increase. McColley said just a tax increase to support. Comadoll said in all fairness have to go with income tax do you know how many rental houses are available out there. McColley thinks more costs should pass on to homeowner. Nagel said spent money on a survey that was done by a professional company assume they know what they were doing. The Mayor said it was not close, McColley responded 66%. Nagel said she would want to research if other issues will be on the May ballot Maassel said that was discussed by the committee too, Nagel need to consider voter

Motion to Direct the Law Director to bring back Legislation to Add .3% on the Income Tax for Design, Engineering and Construction for Capital Maintenance of City Streets and Roads.

Discussion

Motion to Amend Above Motion to add “to Take Effect on July 1, 2017”

**Passed
Yea-5
Nay-1**

Motion To Accept a Donation of \$597.00 from the Girl Scouts of Western Ohio for the Dog Park

Discussion

**Passed
Yea-6
Nay-0**

Motion To Accept a Donation of \$1,276.00 from the Fraternal Order of Eagles #4428 for a Cargo

turnout.

Motion: Comadoll Second: Mires

To direct Law Director to bring back legislation to add .3% on the Income Tax for Design, Engineering and Construction for Capital Maintenance of City Streets and Roads.

Heath asked when do you want it to become effective. The Mayor said assuming goes on May ballot, wouldn't you want to start July 1st. There was discussion on voter turnout and Nagel said would be up to us to educate the voters and they will decide if come out and vote. Baer asked if we put an effective date on the legislation can it be amended. Nagel replied sure.

Motion to Amend the above motion to add “to Take Effect on July 1, 2017”.

Motion: Comadoll Second: Mires

Roll Call on Motion and Amendment:
Yea-Small, Comadoll, Baer, Mires, Bialorucki
Nay-McColley

Heath said the City received for the Recreation Department a donation of \$597.00 for purposes of planting for dog park. Comadoll asked if concrete work was to be done, had issues with concrete have to redo.

Motion Comadoll Second Bialorucki

Mayor do we have any idea if this is money our girl scouts raised. McColley responded it is to be used at our discretion and Heath said it says “planting for dog park” may have to have Tony contact her directly so know where she is at.

Roll call on above Motion:
Yea- Small, McColley, Comadoll, Baer, Mires, Bialorucki
Nay-

Police Chief Weitzel said the cargo box will enhance the new SUV vehicles, the Eagles updated their donation to \$1,580.00 to include the shipping for the two units (see attachment).

Box for Units 28 and 30 to the Police Department

Motion: Comadoll

Second: Small

Discussion

Mayor Maassel asked how deep the box is and Chief Weitzel responded he has not seen to know how far they will extend. Mayor asked if this is something we can install ourselves.

Passed

Yea-6

Nay-0

Roll call on above motion:

Yea-Small, McColley, Comadoll, Baer, Mires, Bialorucki

Nay-

Approval of Bills

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

Miscellaneous

Lulfs

Nothing

Nagel

Nothing

Mires

Nothing

Baer

The Commissioners meeting on the 17th, what time is it. Nagel said no time has been set yet, she will follow up.

Comadoll

Sheffield between Main and Washington, been going for a month has been coned off and cautioned taped for over a month, what is that all about? Lulfs said have some kind of infection in the tree that is attracting bees, have to contact an harborist there is not a nest but bees are devouring the tree and we cannot figure out why so have roped off until we can get someone in there to tell us what is going on with that tree, we are looking into.

Mayor

Congratulations Greg on the clean audit.

The Fall Festival is this weekend encourage everyone to go out it is something the City helps pay for.

Commissioners meeting, who is compiling questions? Nagel said the City Manager is.

Has Roundhouse Road been engineered yet? Lulfs said plans have been finished for about two (2) years. The Mayor asked how is that going to work and Lulfs said essentially will have existing intersection on Scott Street, Wood Drive now comes into 90° curve will be changed to "T" Roundhouse Road will have the right-of-way Wood Drive would key into Roundhouse Road. If there is persistent traffic problems may have to look into signals in the future. Need traffic counts to do a



CITY OF NAPOLEON, OHIO

255 West Riverview Avenue, PO Box 151 • Napoleon, Ohio 43545-0151
Gregory J. Heath, Director of Finance/Clerk of Council

Phone (419) 599-1235 Fax (419)-599-8393
E-mail: gheath@napoleonohio.com
Web Page: www.napoleonohio.com

September 6, 2016

Mr. Kevin Garringer
Henry County Auditor
Napoleon, Oh 43545

Dear Mr. Garringer:

I hereby certify that the Special Assessments have been levied upon the following lots and lands:

<u>CODE</u>	<u>PROJECT</u>	<u>YEARS</u>	<u>AMOUNT</u>
204	Fair/Tyler/Sycamore Streets	1	5,677.84
205	Hobson/Reynolds Streets	1	16,424.94
206	W. Main/Welsted/Vine Streets	3	2,541.56
207	Palmer Ditch Sewer	3	6,373.80
208	NP Water Main & Dist System	8	2,772.46
209	NP Pump Station & Force Main	8	4,344.27
210	NP Collector Sewer	8	3,044.39
211	NP East Interceptor Sewer	8	3,172.64
212	NP West Interceptor Sewer	8	3,652.98
296	So. Side Sewer-Storm & Sanitary - Deferment now due	15	2,218.53
			50,223.41

These are to be applied upon the tax listings for the year 2016 and collected as other taxes are collected.

Sincerely,

Gregory J. Heath
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:
Date: August 23, 2016
Subject: WTP UV Improvements Project – Change Order No. 2

I am requesting approval of Change Order No. 2 in the amount of \$36,730.00 for the WTP UV Improvements Project. This change order is for the relocation of the MCC, the MCC, instrumentation, SCADA, and networking conduit. All work would be required in the next phase of the project. However, this equipment needs to be installed with the UV project to provide control and monitoring of the new equipment. Without these components, we will not be able to run the UV units which are required to meet the LT2 Rule.

CEL

Fw: Next council meeting

From: "Jason Maassel" <jmaassel@napoleonohio.com>
To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

09/12/16 11:38 AM

Rox,

As promised, here is the email that I read in council the other day.

Respectfully,

Jason

-----Original Message-----

From: "Zarin Carr" <zarin@thecarrs.me>
To: "Mayor Maassel" <jmaassel@napoleonohio.com>
Date: 08/22/16 22:29
Subject: Next council meeting

Mayor Maassel,

Would you be able to read this short note for me at the next council meeting, as I will be likely be unable to attend?
Please let me know. Thank you sir!

Napoleon City Council,

I wanted to write you voicing my support for the .03% income tax increase. As stated in the Northwest Signal, the current income tax rate for Napoleon is 1.5%. With regards to income, Napoleon is at a disadvantage with the income tax, as well as the property tax, when being compared with other municipalities. This small tax increase would provide local jobs through construction, improve the quality of life and traffic flow for our citizens, put forth a great investment into the City of Napoleon, and provide the necessary infrastructure for our industry to be able to transport goods efficiently. By investing in our infrastructure, we will certainly get a return, MULTIPLE times over what we initially invested in. I encourage each of you to vote YES for the tax increase, and would encourage my fellow citizens to support this tax increase.

Thank you,
Zarin A. Carr

Zarin A. Carr
Phone: (419) 612-4158
Please visit my LinkedIn Profile: <https://www.linkedin.com/in/zarin-carr-47a092a9>

Sent with City of Napoleon Ohio Webmail

GIRL SCOUTS OF WESTERN OHIO

ADMINISTRATIVE OFFICES
4930 CORNELL ROAD
CINCINNATI, OHIO 45242

PNC Bank, N.A. 070
Ohio
6 - 12 / 410

CHECK NO. **069377**

DATE
07/27/2016

CHECK AMOUNT
\$597.00

PAY ****Five Hundred Ninety Seven and 00/100 Dollars

TO THE ORDER OF
City of Napoleon Parks and Recreation
255 W Riverview
Napoleon, OH 43545

VOID AFTER 90 DAYS

Lindsay G. [Signature]
Susan [Signature]

TWO SIGNATURES REQUIRED IF OVER \$500.00



Payee City of Napoleon Parks and Recreation
Vendor ID

Account #:

Description

Toledo-Planting for Dog Park

DONATION
DOG PARK

69377
07/27/2016

Amount
\$597.00



310 Glenwood Ave
Box 151
Napoleon Ohio
43545
419-599-2810
Fax 419-599-7969
www.napoleonohio.com

Napoleon City Police Department

09/01/2016

Vice President Scott Smith
Fraternal Order of Eagles Aerie #4428
539 N. Perry St
Napoleon, Ohio 43545

Chief Robert L Weitzel
Napoleon City Police Dept.
PO Box 151
310 Glenwood Ave.
Napoleon, Ohio 43545

Dear Scott,

The Napoleon Police Department recently added two new Ford SUVs to the fleet. We would like to install cargo storage boxes in these vehicles. The cargo boxes are designed specifically for the make and model of SUV we are using. The boxes provide storage and organization without obstruction of the floor spare tire compartment and leave ample room for larger cargo.

Total cost including shipping of these two items will be \$1580.00. You have been very helpful to our department in the past with special projects. We are requesting a grant from the Eagle to cover this project. The money you obtain will be used exclusively for the purchase and shipping of the two cargo boxes.

Thank you for your consideration.

Chief Robert L Weitzel
Napoleon City Police
419-599-2810



CITY OF NAPOLEON, OHIO

LAW DEPARTMENT MEMORANDUM

255 W. RIVERVIEW AVENUE, PO BOX 151

NAPOLEON, OH 43545

PHONE: 419.592.4010 - FAX: 419.592.4723

TO: Mr. Mayor, Mr. President, and Council Members
FROM: Lisa L. Nagel, City Law Director
DATE: September 16, 2016

Re: New Legislation for 9/19/16 Council Meeting,

For Monday's Council Meeting (9/19/16), you will have four new pieces of Legislation to consider. The legislation is found in your Council packet.

I wanted to briefly mention **Ordinance 036-16**: "An Ordinance Amending Ordinance No. 053-15, Passed November 15, 2015, an Ordinance to Adopt Chapter 194 of the Codified Ordinances of the City of Napoleon Regarding Income Tax, for the Purpose of Adhering to the Changes Outlined in Senate Bill 172; and Declaring an Emergency."

As some of you may recall, the City passed an extensive Income Tax Ordinance in November, 2015 based upon mandated changes from the Ohio legislature. (The Exhibit attached to Ordinance No. 053-15 was over 60 pages in length). As the new income tax regulations began to be implemented in 2016, some necessary changes became apparent. As such, Ohio Senate Bill 172 was recently passed and became effective on September 14, 2016.

Ohio municipalities are required to enact additional legislation in order to incorporate the changes mandated in Senate Bill 172. **Ordinance 036-16** and the accompanying "**Exhibit A**" provides those changes. The entire "**Exhibit A**" is included in your Council packet (60+pages) for this week; however, for ease of reading purposes, attached to this memo are the 4 pages that contain the actual changes (noted in color) that will be implemented when **Ordinance 036-16** is voted upon and presumably passed at the September 19, 2016 meeting. The remaining portions of "**Exhibit A**" remain the same as previously passed in November, 2015.

You'll see the changes are relatively minor – essentially clarifying due dates and receipt of payment dates for income tax payments.

The other three pieces of new legislation will be discussed in Monica's FYI email and/or discussed at Monday's meeting. As always, if you have any questions, please contact me. Thank you. Lisa

ORDINANCE NO. 036-16

AN ORDINANCE AMENDING ORDINANCE NO. 053-15, PASSED NOVEMBER 15, 2015, AN ORDINANCE TO ADOPT CHAPTER 194 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON REGARDING INCOME TAX, FOR THE PURPOSE OF ADHERING TO THE CHANGES OUTLINED IN SENATE BILL 172; AND DECLARING AN EMERGENCY

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 the Senate enacted S. B. 172 in June 2016 which amended various provisions of H.B. 5;” and

WHEREAS, upon a detailed review of H. B. 5, S. B. 172, and the Codified Ordinances of the City of Napoleon, this Ordinance is found and determined by this Council to enact the amendments required 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 was adopted as set forth in the document entitled “Chapter 194, Municipal Income Tax, Effective January 1, 2016” attached to Ord. No. 053-15 as Exhibit A and incorporated therein 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 Ordinance No. 053-15 took effect on January 1, 2016, and remains in effect and in force to date.

Section 4. This this Ordinance No. 036-16 amends Ord. No. 053-15 so as to incorporate and adopt all identified changes noted herein, including the changes as noted in the attached Exhibit A entitled "Chapter 194, Municipal Income Tax, Effective January 1, 2016 and Amended September 19, 2016". The remaining, unchanged portions of Ord. No. 053-15 remain in full force and effect.

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, 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 in order to allow the City to timely implement the changes expounded in Senate Bill 172 which became effective on September 12, 2016; 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: _____

Jason P. Maassel, 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. 036-16 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 and Amended September 19, 2016
For taxable years beginning with taxable year 2016
Exhibit A to Ordinance 036-16053-15

- 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**

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 last~~ day of the month following the ~~end last day~~ 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~~ Payments under division (B)(1)(b) of this section shall be made ~~so that the payment is received by to~~ 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

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 under this chapter is ~~required to be~~ made by electronic funds transfer, the payment is shall be 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 on the date of the timestamp assigned by the first electronic system receiving that payment. For purposes of this section, "receiving that payment" refers to the transfer of funds from the account of the taxpayer. Such funds are no longer under control of the taxpayer once the timestamp has occurred. 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

ORDINANCE NO. 036-16

AN ORDINANCE AMENDING ORDINANCE NO. 053-15, PASSED NOVEMBER 15, 2015, AN ORDINANCE TO ADOPT CHAPTER 194 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON REGARDING INCOME TAX, FOR THE PURPOSE OF ADHERING TO THE CHANGES OUTLINED IN SENATE BILL 172; AND DECLARING AN EMERGENCY

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 the Senate enacted S. B. 172 in June 2016 which amended various provisions of H.B. 5 ;” and

WHEREAS, upon a detailed review of H. B. 5, S. B. 172, and the Codified Ordinances of the City of Napoleon, this Ordinance is found and determined by this Council to enact the amendments required 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 was adopted as set forth in the document entitled “Chapter 194, Municipal Income Tax, Effective January 1, 2016” attached to Ord. No. 053-15 as Exhibit A and incorporated therein 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 Ordinance No. 053-15 took effect on January 1, 2016, and remains in effect and in force to date.

Section 4. This this Ordinance No. 036-16 amends Ord. No. 053-15 so as to incorporate and adopt all identified changes noted herein, including the changes as noted in the attached Exhibit A entitled “Chapter 194, Municipal Income Tax, Effective January 1, 2016 and Amended September 19, 2016”. The remaining, unchanged portions of Ord. No. 053-15 remain in full force and effect.

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, 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 in order to allow the City to timely implement the changes expounded in Senate Bill 172 which became effective on September 12, 2016; 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: _____

Jason P. Maassel, 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. 036-16 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 and Amended September 19, 2016
For taxable years beginning with taxable year 2016
Exhibit A to Ordinance 036-16053-15

- 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
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 - 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**
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 - 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.

(O) INTENTIONALLY LEFT BLANK

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

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

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

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

- (a) For qualifying wages described in division (B)(1) of Section 194.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 194.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the 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.
- (E) INTENTIONALLY LEFT BLANK

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts,

investments in regulated investment companies, and appreciation on deferred compensation. "Intangible income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

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

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

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

(19) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 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 this division, 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.

- (iii) INTENTIONALLY LEFT BLANK
 - (iv) INTENTIONALLY LEFT BLANK
 - (v) Any amount included in wages that is exempt income.
- (B) Add the following amounts:
- (i) Any amount not included in wages solely because the employee was employed by the employer before April 1, 1986.
 - (ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income.
 - (iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals.
 - (iv) Any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.
 - (v) Any amount received that is treated as self-employment income for federal tax purposes in accordance with section 1402(a)(8) of the Internal Revenue Code.
 - (vi) Any amount not included in wages if all of the following apply:
 - (a) For the taxable year the amount is employee compensation that is earned outside of the United States and that either is included in the taxpayer's gross income for federal income tax purposes or would have been included in the taxpayer's gross income for such purposes if the taxpayer did not elect to exclude the income under section 911 of the Internal Revenue Code;
 - (b) For no preceding taxable year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;
 - (c) For no succeeding taxable year will the amount constitute wages; and
 - (d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.
- (35) **"RELATED ENTITY"** means any of the following:
- (A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent (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-last~~ day of the month following the ~~end-last day~~ 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 Payments~~ under division (B)(1)(b) of this section shall be made ~~so that the payment is received by to~~ 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 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 1, 2016. (Source: *ORC 718.06*)

194.064 TAX CREDIT FOR BUSINESSES THAT FOSTER NEW JOBS IN OHIO

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

194.065 TAX CREDITS TO FOSTER JOB RETENTION

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

194.07 DECLARATION OF ESTIMATED TAX

- (A) As used in this section:
- (1) "Estimated taxes" means the amount that the taxpayer reasonably estimates to be the taxpayer's tax liability for a municipal corporation's income tax for the current taxable year.
 - (2) "Tax liability" means the total taxes due to a municipal corporation for the taxable year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.
- (B) (1) Every taxpayer shall make a declaration of estimated taxes for the current taxable year, on the form prescribed by the Tax Administrator, if the amount payable as estimated taxes is at least two hundred dollars. For the purposes of this section:
- (a) Taxes withheld from qualifying wages shall be considered as paid to the municipal corporation for which the taxes were withheld in equal amounts on each payment date. If the taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld.
 - (b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
 - (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 under this chapter is ~~required to be~~ made by electronic funds transfer, the payment is shall be 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 on the date of the timestamp assigned by the first electronic system receiving that payment. For purposes of this section, "receiving that payment" refers to the transfer of funds from the account of the taxpayer. Such funds are no longer under control of the taxpayer once the timestamp has occurred. 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 (A)(2) of this section 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)

194.10 PENALTY, INTEREST, FEES, AND CHARGES

(A) As used in this section:

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

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

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

(4) "Interest rate as described in division (A) of this section" means the federal 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)

ORDINANCE NO. 037-16

AN ORDINANCE AMENDING THE CITY OF NAPOLEON TRAFFIC SCHEDULES, SPECIFICALLY SCHEDULE II, "PARKING TIME LIMITS" ON CERTAIN CITY STREETS AS LISTED IN THE ATTACHED EXHIBIT A; AND REPEALING ORDINANCE NO. 032-11

WHEREAS, the City Manager, pursuant to authority granted in the Charter of the City of Napoleon, establishes traffic control in the City of Napoleon;

WHEREAS, the current parking time limits and parking restrictions need updated on certain City streets as provided in the attached Exhibit A;

Now Therefore,

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

Section 1. That, the City of Napoleon Ohio hereby amends Schedule II of the City of Napoleon Traffic Schedules to reflect parking time limits and restrictions on certain City streets as provided in the attached Exhibit A.

Section 2. That any changes needed to pages, page numbers, or appendixes are hereby approved to accommodate for the above amendment.

Section 3. That, Ordinance No. 032-11 as existed prior to the enactment of this Ordinance, is repealed in its entirety.

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, this Ordinance shall be in full force and effect at the earliest time permitted by law.

Passed: _____

Travis B. Sheaffer, Council President

Approved: _____

Jason P. Maassel, 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. 037-16 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

Exhibit A – Ord. No. 037-16

Street	Between	Side	Restriction	Spaces
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A-5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Perry St./Monroe St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-17
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	1
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	2
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking Only	3
Clinton St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6 P)	4-18
Clinton St., W.	Scott St./Perry St.	N	No parking except (7A—11A) on Sundays during Church service ; and at times of special events approved by Chief of Police.	1 (166 Feet)
Clinton St., W.	Webster St./Scott St.	S	None	1- 6-7
Clinton St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-9
Main St. Parking Lot	Main St./Alley	W	30 Min. (2A - 5A) 2 10 Hour (5A—6P)5A-2A	1-8
Main St. Parking Lot	Main St./Alley	W. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
Main St. Parking Lot	Main St./Alley	W		9-12
Main St. Parking Lot	Main St./Alley	E. Center	No parking, except Red Cross use	1
Main St. Parking Lot	Main St./Alley	E. Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	2-10 1-10
Main St. Parking Lot	Main St./Alley	E	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-10

Main St. W.	Perry St./Scott St.	S	No parking all day	5-21
Main St. W.	Perry St./Scott St.	N	No parking all day	5-6-1-2
Main St. W.	Webster St./Scott St.	S	No Parking (7:30A - 8:30A) No Parking (2:30 P - 3:30P) on school days	17-27
Main St., W.	Scott St./Webster St.	N		1-8
Main St., W.	Scott St./Webster St.	S		1-2
Main St., W.	Webster St./Avon Pl.	N		1-15
Main St., W.	Webster St./Avon Pl.	S	4 Hour (7:30A - 3:30P) on school days	1-2
Main St., W.	Avon Pl./Webster St.	S		3-7
Main St., W.	Avon Pl./Webster St.	S	No Parking (7:30A - 8:30A) No Parking (2:30P - 3:30P) on school days	8-14
Main St., W.	Avon Pl./Webster St.	S	Handicapped Parking Only	15-16
Main St., W.	Webster St./Scott St.	S		28-29
Main St., W.	Perry St./Scott St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Main St., W.	Perry St./Scott St.	N	Handicapped Parking only	4
Main St., W.	Perry St./Scott St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-7
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	County Government use only	1-6
Monroe St. Parking Lot	Shelby St./Clinton St., E.	E	30 Min (2A - 5P)	7-18
Monroe St. Parking Lot	Shelby St./Clinton St., E.	W	30 Min (2A - 5A)	1-16
Monroe St.	Alley/to sign	E	No Parking 8A - 3:30P on school days	1 (50 Feet)
Monroe St.	Sign/Clinton St.	E	No Parking 8A - 9A and 3P - 3:30P school days only	1 (110 Feet)
Monroe St.	Shelby St./Clinton St., E.	W		1-11
Monroe St.	Shelby St./Clinton St.	W	Handicapped Parking only	12
Monroe St.	Washington St., E./Riverview Ave.	W	30 Min. (2A - 5A) Handicapped Parking only No Parking	4-0
Monroe St.	Clinton St./Washington	W	30 Min. (2A - 5A)	1

	St.		Handicapped Parking only	
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-15-16
Monroe St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) Handicapped Parking only	16
Monroe St.	Washington St./Alley	E	30 Min. (2A - 5A)	1-5
Monroe St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A)	1-14
Oakwood Ave.	Railroad St./Perry St.	W		1-25
Oakwood Ave.	Perry St./Monroe St.	E		1-11
Perry St.	Riverview Ave./Front St.	W	5 Min. - (loading zone)	1 (40 Feet)
Perry St.	Riverview Ave./Front St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-3
Perry St.	Riverview Ave./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-8
Perry St.	Riverview Ave./Washington St.	E	Handicapped Parking only	9
Perry St.	Riverview Ave./Washington St.	E	Police use only	10
Perry St.	Shelby St./Railroad St.	E	18 Hour 30 Min. (2A-5P) All Day	9-11
Perry St.	Shelby St./Railroad St.	W	2 Hour	1-6
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	1
Perry St.	Clinton St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-11
Perry St.	Clinton St./Washington St.	E-W	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1
Perry St.	Clinton St./Washington St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2-11
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Perry St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	5

Perry St.	Shelby St./Railroad St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) -All Day	1-8, 10-12
Perry St.	Shelby St./Clinton St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-5
Perry St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-9
Scott St.	Clinton St./Washington St.	W	2 Hour (5A - 6P) 30 Min. (2A - 5A)	1-6
Scott St.	Washington St./Main St.	W	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1- 9 10
Scott St.	Main St./Washington St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-7
Scott St.	Washington St./Clinton St.	E	2 Hour (5A - 6P) 30 Min. (2A - 5A) Handicapped Parking only	1
Scott St.	Washington St./Clinton St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P)	2- 4 5
Scott St.	Clinton St./Shelby St.	E	30 Min. (2A - 5A) 2 Hour (5A - 6P) Special Event parking within block only with Chief of Police approval	1 (80 Feet)
Shelby St. Parking Lot	Alley/Perry St.	N	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	Center	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-13
Shelby St. Parking Lot	Alley/Perry St.	S	30 Min. (2A - 5A) 10 Hour (5A - 2A)	1-11
St. Paul Methodist Church Parking Lot	Washington St./Alley	E	30 Min. (2A - 5A)	1- 16 14
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	1- 13 5
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A) Handicap Parking Only	14 6-7
St. Paul Methodist Church Parking Lot	Washington St./Alley	W	30 Min. (2A - 5A)	15 16 8-13
Washington St., E.	Hobson St./Monroe St.	S	30 Min.	1-5

Washington St., E.	Hobson St./Monroe St.	S	5 Min. (loading zone only)	6
Washington St., E.	Hobson St./Monroe St.	S		7-9
Washington St., E.	Hobson St./Monroe St.	N		1-11
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-4
Washington St., E.	Monroe St./Perry St.	S	Sheriff use only	11-13
Washington St., W.	Webster St./Avon Pl.	S		1-5
Washington St., W.	Webster St./Avon Pl.	S	Handicap Parking Only	6
Washington St., W.	Webster St./Avon Pl.	S		7
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A-5A) 2 Hour (5A-6P) Handicap Parking Only	1-5
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	6-10
Washington St., E.	Monroe St./Perry St.	S	30 Min.	5
Washington St., E.	Monroe St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	14-18
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-15-2- 4, 6-15
Washington St., E.	Monroe St./Perry St.	N	30 Min.	16
Washington St., E.	Monroe St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	17-19
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-10
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	11-12
Washington St., W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	12-22 13-22
Washington St., E. W.	Scott St./Perry St.	N	30 Min. (2A - 5A) 2 Hour (5A - 6P)	1-6
Washington St., E. W.	Scott St./Perry St. needs restriction sign	N	30 Min. (2A - 5A) 2 Hour (5A - 6P) Handicapped Parking only	7
Washington St., E. W.	Scott St./Perry St.	S	30 Min. (2A - 5A) 2 Hour (5A - 6P)	8-21

Washington St., W.	Scott St./Webster St.	N	Handicapped Parking only 30 Min.	1
Washington St., W.	Scott St./Webster St.	N	30 Min.	2-4
Washington St., W.	Scott St./Webster St.	N		5- 9 -7
Washington St., W.	Scott St./Webster St.	N	Handicapped Parking only	4 0
Washington St., W.	Scott St./Webster St.	S	Special event parking within block only with Chief of Police approval	1 (180 Feet)
Washington St., W.	Scott St./Webster St.	N	No Parking except during Church services and at times of special events approved by Chief of Police	8-10
Webster St.	Washington St./Clinton St.	E	Handicap Parking Only	1
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	4 -7-2-5
Webster St.	Washington St./Clinton St.	E	Handicapped Parking only	8 -9-6-7
Webster St.	Washington St./Clinton St.	E	4 Hour (7A - 5P) 30 Min. (2A - 5A)	4 0-11-8-9
Webster St.	Washington St./Main St.	W	4 Hour (7A - 5P) 30 Min. (2A - 5A)	1- 9 -8
Webster St.	Washington St./Main St.	W	Handicapped Parking only	4 0-9
Webster St.	Washington St./Main St.	W	18 Hour	11 -19-10-18
Webster St.	Main St./Washington St.	E	18 Hour	1-17
Webster St.	Washington St./Clinton St.	E	18 Hour	4 2-23-10-22
Webster St.	Clinton St./Washington St.	W	18 Hour	1- 23 -22
Briarheath Ave.	Clairmont Ave./Westmont Ave.	W		1-3
Briarheath Ave.	Westmont Ave./Westchester Ave.	W		1-3

Main St. Concrete Parking Lot	Main St./Alley	E (side)		1-5
Main St. Concrete Parking Lot	Main St./Alley	E (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	W (side center)		1-3
Main St. Concrete Parking Lot	Main St./Alley	E (side West)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side West)		1-4
Main St. Concrete Parking Lot	Main St./Alley	W (side West)	Motorcycle Only	5



City of Napoleon, Ohio

DEPARTMENT OF MANAGEMENT

255 West Riverview Avenue, P.O. Box 151
Napoleon, OH 43545
Telephone: (419) 592-4010 Fax: (419) 599-8393
www.napoleonohio.com

Memorandum

To: Mr. Mayor, Mr. President, and City Councilmembers
From: Monica Irelan, City Manager
RE: Ordinance No. 037-16 Traffic Schedule

History:

Traffic control is a responsibility of the City Manager. In January of 2016, Committee reviewed the process of traffic control changes and Council approved a procedure of email notifications tied to traffic changes.

Traffic changes are then documented and journalized. Every once in a while, those journalized changes are added or subtracted from the Traffic Schedule. That is what this legislation is doing. We compiled all the changes that have occurred over the past several years. This amendment will bring the Ordinance up to speed with the Traffic Journal.

Recommendation:

Approve the changes as shown.
We would recommend a full three reads and thirty days.

RESOLUTION NO. 038-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO OPT-IN TO THE BRIDGE INSPECTION PROGRAM SERVICES WITH THE OHIO DEPARTMENT OF TRANSPORTATION (“ODOT”), PID NO. 102554; AND DECLARING AN EMERGENCY

WHEREAS, ODOT has instituted a Bridge Inspection Program of which the City of Napoleon now desires to opt in; and,

WHEREAS, the City of Napoleon, being the Local Public Agency, hereafter called “LPA,” grants the City Manager the authority to enter into any contracts or agreements necessary to opt in to said program; and,

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

Section 1. That, the City Manager of Napoleon, Ohio is hereby empowered on behalf of the LPA to prepare and execute any and all documents necessary to opt in to the Bridge Inspection Program PID NO. 102554.

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, this Resolution 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 to in order to timely take effect and be in force to meet ODOT’s timeline for opting in to the Bridge Inspection Program; 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: _____

Jason P. Maassel, 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. 038-16 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 MANAGEMENT

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Napoleon, OH 43545
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www.napoleonohio.com

Memorandum

To: Mr. Mayor, Mr. President, and City Councilmembers
From: Monica Irelan, City Manager
RE: Ordinance No. 038-16 ODOT Bridge Inspections

History:

For many years, we paid a consultant to come into the City and inspect the bridges. This inspection cost the City \$5-8,000 annually. A couple of years ago, ODOT offered to take over the inspection of the bridges at no cost to the City.

This resolution allows ODOT to continue to handle that inspection for us. If you chose not to renew this, we will need to outsource the work and pay a consultant to inspect.

Recommendation:

Approve the resolution as presented.
We would approval under emergency, suspension.

RESOLUTION NO. 039-16

A RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE THE LOCAL GOVERNMENT INNOVATION FUND (“LGIF”) BETWEEN THE STATE OF OHIO DEVELOPMENT SERVICES AGENCY AND THE CITY OF NAPOLEON; AND DECLARING AN EMERGENCY

WHEREAS, the City of Napoleon, Ohio desires to respond more effectively to the needs of the residents by increasing State and Federal revenue; and,

WHEREAS, the State of Ohio Development Services Agency has released quarterly applications for the LGIF; and,

WHEREAS, the City of Napoleon, Ohio is eligible to apply for said LGIF funding; and,

WHEREAS, the City of Napoleon, Ohio resolves to use the LGIF award of \$24,500.00 (\$14,500.00 grant money and \$10,000.00 local money) to participate in the feasibility, planning, and management study in support of the purpose areas and priorities outlined in the grant solicitation; Now Therefore,

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

Section 1. That, the Council of the City of Napoleon does hereby support the LGIF application with the Development Services Agency, and if awarded, agrees to accept and implement the grant program; moreover, the City Manager, in and for the City of Napoleon, is authorized to execute the same.

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 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 Resolution 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 in order to allow the City to timely apply for the LGIF funding; 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: _____

Jason P. Maassel, 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. 039-16 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 MANAGEMENT

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Memorandum

To: Mr. Mayor, Mr. President, and City Councilmembers
From: Monica Irelan, City Manager
RE: Ordinance No. 039-16 Local Government Innovation Fund

History:

The Local Government Innovation Fund (LGIF) is a matching grant to allow local governments to explore new, innovative ways to providing services. The City of Napoleon would like to apply for the grant in order to find a more effective and efficient work order system.

The study will look into procedures, hardware, and software recommendations. The goal is to allow our electric and operations department to be contacted on a tablet instead of coming into the shop for paper work orders. The grant would cover the process investigation and recommendation to allow our departments to become more efficient.

Financial Impact:

The cost of the study is estimated at \$24,500. The grant would be for \$14,500 and the local match would be \$10,000.

Recommendation:

Approve the resolution as presented.
We would approval under emergency, suspension.

RESOLUTION NO. 034-16

A RESOLUTION ACCEPTING THE AMOUNTS AND RATES AS DETERMINED BY THE BUDGET COMMISSION AND AUTHORIZING THE NECESSARY TAX LEVIES AND CERTIFYING THEM TO THE COUNTY AUDITOR FOR THE 2016 TAX DUPLICATES PAYABLE IN YEAR 2017 AND DECLARING AN EMERGENCY

WHEREAS, this Council in accordance with the provisions of law has previously adopted a Tax Budget (Resolution No. 017-16) for the next succeeding fiscal year commencing January 1, 2017; and,

WHEREAS, the Budget Commission of Henry County, Ohio, has certified its action thereon to this Council together with an estimate of the County Auditor of the rate of each tax necessary to be levied by this Council, and what part thereof is without, and what part within the ten mill tax limitation; Now Therefore,

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

Section 1. That, the amounts and rates, as determined by the Budget Commission in its certification, be and the same are hereby accepted; further, the necessary tax levies are authorized, to be certified to the County Auditor for the 2016 Tax Duplicates, payable in the year 2017.

Section 2. That, there be and is hereby levied on the tax duplicate of the City the rate of each tax necessary to be levied within and without the ten mill limitation as follows:

SCHEDULE A				
SUMMARY OF AMOUNTS REQUIRED FROM GENERAL PROPERTY TAX APPROVED BY BUDGET COMMISSION, AND COUNTY AUDITOR'S ESTIMATED TAX RATES				
City Tax Valuation \$140,680,550	Amount to Be Derived from Levies Outside 10 Mill Limitation	Amount Approved by Budget Commission Inside 10 Mill Limitation	County Auditor's Estimate of Tax Rate to be Levied	
FUND			Inside 10 Mill Limit	Outside 10 Mill Limit
General Fund		\$281,700	2.00	
Police Pension Fund		\$84,510	0.60	
Fire Pension Fund		\$42,255	0.30	
TOTAL		\$408,465	2.90	

Section 3. 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 4. 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 5. That, this Resolution 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 to allow timely adoption of tax levies for placement on tax rolls; 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: _____

Jason P. Maassel, 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. 034-16 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. 035-16

A RESOLUTION AUTHORIZING AND DIRECTING THE FINANCE DIRECTOR/CLERK TO CERTIFY AND FILE ANNUAL SPECIAL ASSESSMENTS OF THE CITY OF NAPOLEON, OHIO, WITH THE COUNTY AUDITOR OF HENRY COUNTY FOR PLACEMENT AND COLLECTION ON THE 2016 TAX DUPLICATES PAYABLE IN THE YEAR 2017; AND DECLARING AN EMERGENCY

WHEREAS, this Council in accordance with the provisions of law and by Ordinance has previously established special assessments for various projects in the City; and,

WHEREAS, these special assessments must be annually certified to the County Auditor by the Clerk of the Municipality; Now Therefore,

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

Section 1. That, the City Council of the City of Napoleon, Ohio, directs the Finance Director/Clerk to certify and file annual special assessments of the City with the County Auditor, as required by Section 727.30 of the Ohio Revised Code, in the form presented to Council and on file in the office of the Finance Director, attached and marked as (Exhibit "A"), for placement and collection on the 2016 tax duplicates, payable in the year 2017.

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, this Resolution 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 to allow timely placement of special assessments on the tax rolls; 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: _____

Jason P. Maassel, 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. 035-16 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. 029-16

AN ORDINANCE REPEALING RESOLUTION NO. 051-13 WHICH AUTHORIZES THE CITY MANAGER TO TERMINATE OR ASSIGN THE CITY OF NAPOLEON’S WATER PURCHASE AGREEMENT WITH THE VILLAGE OF MALINTA, OHIO; AND DECLARING AN EMERGENCY

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

Section 1. That, Resolution No. 051-13 is repealed in its entirety, and therefore the City Manager no longer has any authority or power to terminate the Water Purchase Contract with the Village of Malinta or to assign the Water Purchase Contract to the Henry County Regional Water and Sewer District.

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 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 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 to assure the prompt and efficient conduct of the municipal operations related to public peace, health or safety of the City; 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: _____

Jason P. Maassel, 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. 029-16 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 MANAGEMENT

255 West Riverview Avenue, P.O. Box 151
Napoleon, OH 43545
Telephone: (419) 592-4010 Fax: (419) 599-8393
www.napoleonohio.com

Memorandum

To: Mr. Mayor, Mr. President, and Councilmembers
From: Monica Irelan, City Manager
RE: *Automatic Renewal of Efficiency Smart*

History:

Efficiency Smart is a nationally recognized efficiency program. We are currently enrolled in the High Performance service with guaranteed benchmarks for savings. The contract is a 3-year contract with an evergreen clause meaning it automatically renews.

Efficiency programs are important because it helps lower peak load contribution, customers' bills, and capacity charges.

On September 12, the BOPA and Electric Committee reviewed three options including the renewal of the program, the discontinuation of the program, and adding more options under the Efficiency Smart 3.0 program.

The both committees recommendation was to continue providing the service and allow the automatic renewal to take place.

Recommendation:

Committees and staff would recommend we continue with the automatic renewal.



City of Napoleon, Ohio

DEPARTMENT OF MANAGEMENT

255 West Riverview Avenue, P.O. Box 151
Napoleon, OH 43545
Telephone: (419) 592-4010 Fax: (419) 599-8393
www.napoleonohio.com

Memorandum

To: Mr. Mayor, Mr. President, and Councilmembers
From: Monica Irelan, City Manager
RE: *Industrial Drive Sidewalks*

History:

In February 2015, the City applied for a grant through ODOT's Small City program. This program will fund a portion of the construction of roads and drainage structures. The City is responsible for waterlines, sanitary sewers, and all design costs.

The City was awarded a grant with 95% reimbursement for all eligible items. We do not have a total estimated cost yet; we are very early in the design, but we are estimating the grant will total \$1,956,050.

Safety is a large concern for ODOT. Because it is their money, they require us to include certain enhancements, one of which was sidewalks on both sides of the road. We were able to convince them to just require sidewalks on one side of the road. We will be putting them on the west side. This will affect 3 properties: the apartments on E. Riverview, Old Castle, and the Operations building. If not for ODOT's involvement, we would not install sidewalks in industrial areas. The Municipal Properties, Building, Land Use, and Economic Development Committee discussed the sidewalk installation and made a recommendation to pay for the construction of the sidewalks since the grant will cover 95% of the cost.

Recommendation:

Committee and Staff recommend that the City pay for these sidewalks. 95% of the cost will be covered by the grant.

RIDGEVILLE TOWNSHIP VOLUNTEER 10-05
FIRE DEPARTMENT

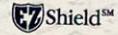
56-1388/412

3266

P.O. BOX 244 PH. 419-267-3344
RIDGEVILLE CORNERS, OH 43555

DATE

9/12/16



PAY TO THE ORDER OF

NAPOLZON FD

\$ 100.00

One Hundred and 00/100

DOLLARS

Heat Reactive Ink

SHERWOOD STATE BANK

SSB A COMMUNITY BANK

MEMO

SAFETY HOUSE
USA

A. Ward

MP

3266

SECURITY SQUARE AND HEAT REACTIVE INK. DETAILS ON BACK.

Fire Donation for Safety House

100-2200-44350 Fire Donations
\$100.00

MEMORANDUM

TO: Parks & Recreation Committee, City Council, Mayor, City Manager,
City Law Director, City Finance Director, Department Supervisors, News media

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

DATE: September 16, 2016

RE: Parks & Recreation Committee September Meeting Cancellation

The regular Parks and Recreation Committee meeting scheduled for Monday, September 19, 2016 at 6:15 pm has been CANCELED at the direction of the Chair due to lack of agenda items.



CITY OF NAPOLEON, OHIO

255 West Riverview Avenue • PO 151 • Napoleon, Ohio 43545-0151
Gregory J. Heath, Director of Finance/Clerk of Council
phone (419) 599-1235 fax (419)-599-8393
Web Page: www.napoleonohio.com
E-mail: gheath@napoleonohio.com

DATE: September 16, 2016

TO: Members of City Council
Jason P. Maassel, Mayor
Monica Irelan, City Manager
Lisa Nagel, City Law Director

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

SUBJECT: 2016 Capital Facilities Notes, Series 2016B - \$1,400,000

On Thursday, September 16, 2016, at 11:00 AM the City received Bids on the 2016 Capital Facilities Notes, Series 2016B for \$1,400,000. The City received three (3) valid bids (Please See Attached Bid Summary Spreadsheet) with the low bidder being:

Bidder: KeyBanc Capital Markets, Inc.
Bid Date: 09/15/2016
Bid Rate: 1.50%
Bid Premium: \$476
Net Rate: 1.42%
Close Date: 09/29/2016
Maturity Date: 03/02/2017

The Maturity Date of 03/02/2017 corresponds with the original 2016 Capital Facilities Notes, Series 2016 for \$2,500,000. It is my understanding at this time the City may Roll both Notes into one total of \$3,900,000 and reissue one (1) year notes in March, 2017.

This is dependent on final funding that may impact the Net Amount of these Notes actually needed at that time. The City is still in the process of working through the final funding and possible sources at this time.

City of Napoleon, Ohio
Sale of - Capital Facilities Notes, Series 2016-B -- NEW Water Plant Facilities Notes in 2016
Project - Rebuild Water Plant Facilities - Equipment and Installation of UV Process on Raw Water
\$1,400,000.00

Date Quotes Received : September 18, 2016
 Dated Closing Date : September 29, 2016
 Maturity Date : March 2, 2017
 Days: 153

Bidding Information :

<u>Bidders</u>	<u>Coupon Interest Rate</u>	<u>Gross Interest</u>	<u>Less: Premium</u>	<u>Net Interest Cost</u>	<u>Net Interest Rate</u>	<u>Net \$ Var. to Low Bid</u>
<u>KeyBanc Capital Markets - Lori Capron (216) 689-0382</u>	<u>1.5000%</u>	<u>\$8,925.00</u>	<u>\$476.00</u>	<u>\$8,449.00</u>	<u>1.420000%</u>	<u>\$0.00</u>
Huntington Bank - Tim Mackin (216) 515-5612	2.2500%	\$13,387.50	\$2,408.00	\$10,979.50	1.845294%	\$2,530.50
Oppenheimer & Co. - Darren L. Smith (216) 656-2893	2.0000%	\$11,900.00	\$522.00	\$11,378.00	1.912269%	\$2,929.00

Bold = Low Note Bid

RECEIPT ACCOUNTS for NOTE PROCEEDS (Upon Closing):

RECEIPT OF FUNDS BY WIRE TRANSFER IN FROM

<u>Project Funded</u>	<u>Principal</u>	<u>Receipt Accounts</u>
519 New Water Plnt.Imp.& Ren.Fd.	\$1,400,000.00	- 519.0000.48000 Note Proceeds
	\$1,400,000.00	<- Total 2016 - Series-B - Original Note Issuance
	\$476.00	- 300.0000.48550 Notes - Premium
	\$1,400,476.00	<- TOTAL - GROSS RECEIPTS
	=====	

Fw: Special Information

From: "Gregory J Heath" <gheath@napoleonohio.com>
To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

09/15/16 09:18 AM

Rox, For Council Packets.

-----Original Message-----

From: "The Ohio Municipal League" <zwade@omloho.org>
To: gheath@napoleonohio.com
Date: 09/15/2016 09:13 AM
Subject: Special Information



STAY CONNECTED:



The Broadband Imperative: Creating an Intelligent Ohio

You are invited to a regional gathering of local government leaders on the topic of "Broadband Deployment" and the growing imperative for this fourth utility.

Last October the City of Dublin launched the [Global Institute for the Study of the Intelligent Community](#), which is affiliated with the [Intelligent Community Forum](#). The goal of the Institute is to create an "Intelligent Ohio" through the deployment, access and use of broadband capabilities in urban, suburban and rural communities throughout the state.

As we move toward our goal of an Intelligent Ohio, a key next step is to hold "road shows" regionally to bring together local leaders throughout the state. These road shows are two hours in duration and free to attend. The agenda will include an overview of the broadband imperative, a brief case study of a community that has seen success through deployment and an hour of gathering input from attendees about their challenges, needs and opportunities for collaboration in order to move forward with deployment.

Central Ohio Roadshow

When: Tuesday, September 20, 2016 from 8:30 - 10:30 am
Where: Mid-Ohio Regional Planning Commission (111 Liberty St, Suite 100, Columbus, OH 43215)
Cost: FREE
RSVP: [Click here](#)

Northwest Ohio Roadshow

When: Tuesday, September 20, 2016 from 2:30 - 4:30 pm
Where: Bowen Thompson Student Union (806 Ridge St, Bowling Green, OH 43403)
Cost: FREE
RSVP: [Click here](#)

Southwest Ohio Roadshow

When: Wednesday, September 21, 2016 from 1 - 3 pm
Where: Sharonville Convention Center (11355 Chester Rd, Cincinnati, OH 45246)
Cost: FREE
RSVP: [Click here](#)

Please direct any questions you may have to Michelle Crandall at mcrandall@dublin.oh.us or icfinstitute@dublin.oh.us | 614.410.4456

Flyer

STAY CONNECTED:



The Ohio Municipal League, 175 S. Third Street, Suite 510, Columbus, OH 43215

SafeUnsubscribe™_gheath@napoleonohio.com

Fw: Northwest Ohio Broadband Information Session, September 20

From: "Gregory J Heath" <gheath@napoleonohio.com>
To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

09/15/16 08:02 PM

Please add to Council Packet.

-----Original Message-----

From: "Jennifer Allen" <allen@tmacog.org>
To: "Jennifer Allen" <allen@tmacog.org>
Date: 09/15/2016 04:03 PM
Subject: Northwest Ohio Broadband Information Session, September 20

FYI - The City of Dublin, OH will be hosting three roadshows in Central, Northeast and Northwest Ohio in September to spread awareness and understanding of the importance of broadband deployment and to gather insight as to regional opportunities and challenges related to deployment. The City of Dublin is partnering with the BGSU Center for Regional Development for their Northwest Ohio Roadshow, and invite local governments in our region to attend an informative session on Tuesday, September 20 from 2:30 p.m. to 4:30 p.m. in the Bowen Thompson Student Union (806 Ridge St, Bowling Green, OH 43403). There is no charge to attend this program, however, registration is required. See additional details in the email below from Dublin Assistant Manager Michelle Crandall.

Sincerely,

Jennifer Allen
Executive Secretary
TMACOG
PH 419-241-9155 ext. 107
FAX 419-241-9116

From: Michelle L. Crandall [<mailto:mcrandall@dublin.oh.us>]
Sent: Tuesday, September 13, 2016 9:51 AM
To: Tim Brown
Cc: Jennifer Allen
Subject: Broadband Roadshows

You are invited to a regional gathering of local government managers and leaders on the topic of "Broadband Deployment" and the growing imperative for this fourth utility. Last October, the City of Dublin, OH launched the Global Institute for the Study of the Intelligent Community <http://globalinstitute.dublinohiousa.gov/> which is affiliated with the Intelligent Community Forum <http://www.intelligentcommunity.org/>. The goal of the Institute is to create an "Intelligent Ohio" through the deployment, access and use of broadband capabilities in urban, suburban and rural communities throughout the state.

As we move toward the goal of an Intelligent Ohio, a key next step is to hold "road shows" regionally throughout the state. These road shows are 2 hours in duration and free to attend. The agenda will include an overview of the broadband imperative, a brief case study of a community that has seen success through deployment and an hour of gathering input from attendees about their challenges and needs in order to move forward with deployment. Below is the date and time for the upcoming roadshow in Northwest Ohio:

-
Northwest Ohio Roadshow

When: Tuesday, September 20, 2016 from 2:30 - 4:30 pm

Where: Bowen Thompson Student Union (806 Ridge St, Bowling Green, OH 43403)

Cost: FREE

RSVP: [Click here](#)

Michelle Crandall

Assistant City Manager

City of Dublin

Office of the City Manager

5200 Emerald Parkway

Dublin, Ohio 43017

phone 614.410.4403

cell 614.206.4886

mcrandall@dublin.oh.us

www.dublinohiousa.gov

www.twitter.com/dublinohio

www.facebook.com/dublinohio

Gregory J. Heath, Finance Director/Clerk of Council

City of Napoleon, Ohio

255 West Riverview Avenue, PO Box 151

Napoleon, Ohio 43545-0151

Phone : (419) 599-1235

FAX : (419) 599-8393

E-Mail: gheath@napoleonohio.com

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UPdate

A weekly newsletter presented by AMP President/CEO Marc Gerken

September 9, 2016

August 2016: Energy use up, prices flat

By Mike Migliore – vice president of power supply planning & marketing

Although August 2016 was the second-hottest August in 50 years and hotter than July 2016, market prices remained relatively low.

Congestion throughout PJM also stayed mild and remained negative from PJM West to PP&L in eastern PJM for the 18th straight month.

AVERAGE DAILY RATE COMPARISONS

	August 2016 \$/MWh	July 2016 \$/MWh	August 2015 \$/MWh
A/D Hub 7x24 Price	\$31.10	\$31.40	\$29.00
PJM West 7x24 Price	\$32.60	\$32.38	\$30.45
A/D to AMP-ATSI Congestion/Losses	\$1.43	\$0.41	\$0.15
A/D to Blue Ridge Congestion/Losses	\$0.88	\$0.25	\$0.69
A/D to PJM West Congestion/Losses	\$1.50	\$0.98	\$1.48
PJM West to PP&L Congestion/Losses	-\$4.01	-\$1.92	-\$4.49
IND Hub to A/D Hub Congestion/Losses	-\$0.04	\$0.12	\$1.60

Energy markets update

By Jerry Willman – assistant vice president of energy marketing

The October 2016 natural gas contract closed up \$0.13/MMBtu to settle at \$2.806. The EIA reported an injection of 36 Bcf for the week ending Sept. 2, which was well below market expectations in the mid-40s range. Total inventories are now at 3.437 Tcf; most models now anticipate end of season storage to be close to 3.9 Tcf.

On-peak power prices for 2017 at AD Hub closed yesterday at \$37.13/MWh, which was \$0.35/MWh higher for the week.

AFEC update

By Jerry Willman

The Fremont plant was available for 2x1 operation for the week, but the plant was dispatched to 1x1 configuration during the off-peak hours last Sunday and Monday due to cooler temperatures and lower loads over the holiday weekend. Duct firing operation was limited to 38 hours this week due to PJM transmission constraints on Tuesday and Wednesday.

see AFEC Page 2

House begins review of Federal Power Act

By Jolene Thompson – executive vice president/OMEA executive director; and Marty Kanner – federal legislative counsel, Kanner & Associates

Since 1935, the Federal Power Act has set the framework for regulating the wholesale electric power and transmission system. The law has been incrementally modified over the years to respond to, or prompt, changes in the industry. A Sept. 7 oversight hearing by the House Energy and Power Subcommittee set the stage for what may be another potentially significant statutory change.

The hearing – "The Federal Power Act: Historical Perspective" – was the first action in nearly a decade to review the legal underpinnings of the wholesale power market.

The hearing featured one former commissioner from the Federal Energy Regulatory Commission (FERC), two former FERC general counsels, and a former Department of Energy deputy secretary. All four witnesses highlighted the flexibility inherent in the Federal Power Act, noting that the law allowed both monopoly rate regulation and market competition with only minor statutory changes.

Yet members of the subcommittee seemed eager to update the statute to respond to technological innovation and an increasingly blurred jurisdictional line between federal and state utility regulation.

"We may need to revisit the bright line dividing federal jurisdiction to account for current realities of today's grid operation," said U.S. Rep. Jerry McNerney (D-CA), noting the changes to the grid from increased distrib-

continued on Page 2

AFEC continued from Page 1

Although duct firing was restricted on those days, PJM allows generators to recover Lost Opportunity Costs (LOC) if the output from a generating unit is limited due to a transmission constraint, so revenue for the project is not impacted during those hours. The plant generated at a 62 percent capacity factor (based on 675 MW rating).

AMP receives Pennsylvania CLE approval for conference

By Michael Kyser – assistant deputy general counsel

AMP has received approval by the Pennsylvania Continuing Legal Education (CLE) Board for the courses listed below. Those who attend all of the sessions, to take place Sept. 27-28 during the 2016 AMP/OMEA Annual Conference, can earn 4.50 hours of Pennsylvania CLE credit.

Tuesday, Sept. 27:

- **APPA** – Public power opportunities and challenges facing AMP and OMEA members
- **Federal Reserve** – U.S. economic update.
- **Wage Hour Law: What’s new and what stays the same?**

Wednesday, Sept. 28:

- **Federal legislative and regulatory issues update regarding municipal electric utilities**
- **Ohio legislative and regulatory issues update regarding municipal electric utilities**
- **Focus Forward Tool Kit results** – Panel speakers with AMP member municipalities and their consultants

For any questions or comments regarding the CLE program, please contact me at mkyser@amppartners.org or 614.540.0984, or Barbara Johnson at 614.540.6408 or bjohnson@amppartners.org.

AUGUST OPERATIONS STATISTICS		
	August 2016	August 2015
JV6 Wind Capacity Factor	7%	10%
Belleville Capacity Factor	59%	43%
Willow Island Capacity Factor	40%	N/A
Meldahl Capacity Factor	54%	N/A
Cannelton Capacity Factor	74%	N/A
AFEC Capacity Factor	75%	66%
Blue Creek Wind Capacity Factor	12%	13%
Napoleon Solar Capacity Factor	20%	23%
Prairie State Capacity Factor	69%	92%
Avg. A/D Hub On-Peak Rate	\$38/MWh	\$34/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
 *Willow Island capacity factor based on 44.2 MW rating
 *Meldahl capacity factor based on 105 MW rating
 *Cannelton capacity factor based on 87.6 MW rating

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

Week ending Sept. 9

MON	TUE	WED	THU	FRI
\$28.84	\$39.55	\$41.44	\$49.31	\$39.23

Week ending Sept. 2

MON	TUE	WED	THU	FRI
\$42.38	\$35.26	\$34.54	\$29.28	\$27.45

AEP/Dayton 2017 5x16 price as of Sept. 8 — \$37.13

AEP/Dayton 2017 5x16 price as of Sept. 1 — \$36.78

House begins review of act

continued from Page 1

uted generation and new technologies.

Others expressed concern that current market rules inadequately value baseload and dispatchable generation resources and threaten stranded costs.

U.S. Rep. Greg Harper (R-MS) noted that assurance of adequate supply, once the purview of the states is “now largely up to the RTOs [regional transmission organizations] – raising questions of cost effectiveness and fuel diversity.”

Significantly, despite skyrocketing costs in many organized markets, little attention was given at the hearing to consumer costs or value. In part, this is a reflection of the complexity of utility regulation.

That complexity was evidenced when U.S. Rep. Bill Johnson (R-OH) queried whether hydropower’s operational value is adequately recognized by the organized markets – a clear reference to frustrations experienced by AMP and others – and received a vague response that large hydro-power projects in the western U.S. operate outside RTOs.

“It is a complex issue with broad ramifications – that we never hear from constituents on,” U.S. Rep. Joe Barton (R-TX) said during the hearing.

A positive outgrowth of that complexity is recognition by all sides that the path forward will require bipartisan cooperation and consensus.

The subcommittee intends to hold additional oversight hearings on the Federal Power Act. While all of the witnesses applauded further oversight, the hearing also highlighted the potential for these hearings to prompt proposals that could further expand FERC jurisdiction into retail utility service – including policies on net metering, energy storage and demand response.

In addition, it could once again lead to legislative proposals to require mandatory capacity markets or other measures to guarantee generators full and rich returns on their investments.

AMP and OMEA will be working with the Transmission Access Policy Study Group (TAPS) and the American Public Power Association (APPA) to formulate strategies going forward. We will also be working closely with key congressional offices. This topic will be discussed during the Federal Legislative Updates session at the upcoming AMP/OMEA Conference.

2016 Public Power Week to take place Oct. 2-8

AMP's Board of Trustees and the OMEA Board of Directors adopted resolutions for Public Power Week at their August meetings.

The AMP Board resolution states "that the week of Oct. 2-8, 2016, be designated Public Power Week, in order to honor Ohio, Pennsylvania, Michigan, Virginia, Kentucky, West Virginia, Maryland, Indiana and Delaware's municipal electric utilities, their employees, and the consumer-owners who work together to provide the best possible electric service."

Public Power Week provides an opportunity to communicate the advantages of community-owned electric utilities. AMP will distribute sample social media posts and a sample editorial for members to use to highlight the benefits of public power.

Additionally, the American Public Power Association (APPA) has resources available on their [website](#) for use during public power week.

In previous years, AMP member communities have celebrated Public Power Week by hosting open houses, holding coloring and poster design contests, giving presentations at local schools, luncheons, hosting speakers and distributing energy efficient light bulbs. This year, Cleveland Public Power will hold its third-annual Solar Sprint, a competition featuring miniature solar powered cars for student teams in grades 3-8.

Since its creation in 1986 by the American Public Power Association and its members, Public Power Week has taken place annually the first full week in October. The country-wide program celebrates the importance of public power to local citizens and other public constituencies, including state and national officials.

AMP would like to hear what member communities are doing for Public Power Week. Please send information and photos to Kerin Scott at kscott@amppartners.org or 1111 Schrock Road, Suite 100, Columbus, OH 43229.

Conference session to cover federal legislative issues

Legislative issues and their impacts on public power at the national level will be the focus of the Federal Legislative and Regulatory Issues Update session at the upcoming AMP/OMEA Conference.

Marty Kanner of Kanner & Associates will join AMP Executive Vice President and OMEA Executive Director Jolene Thompson for a discussion on public power and the impacts of federal legislative and regulatory issues, including tax, transmission and environmental issues.

The session will be held Sept. 28 from 9 to 10 a.m. and has been approved by the Ohio Supreme Court for Continuing Legal Education (CLE) credit.



'Amplifier' is now offered digitally; join AMP's readership

By Krista Selvage – director of media relations & communications

As a reminder, the Amplifier magazine is now available in a digital format for those who prefer to receive the publication via email. If you would like to be added to the email Amplifier list and only receive the magazine in PDF format, please contact me at kbselvage@amppartners.org. We will continue to send hardcopy versions to those on our mailing list unless otherwise specified.

We are also looking to expand our readership base for those who may not already be receiving the quarterly magazine, which covers a broad spectrum of industry topics. Current and past editions of the magazine are available on the [Member Extranet](#) section of the AMP website.

Hamilton to host open house for Meldahl, Greenup facilities

Provided by the City of Hamilton Department of Utilities

The City of Hamilton will hold open house tours at the Greenup and Meldahl hydro facilities Sept. 20-21, each to take place from 10 a.m. to 3 p.m. Additional event information is provided below. If interested in attending, please RSVP to Debbie Bennett or Peggy Bange using the event's email address.

Sept. 20: Greenup Open House – This event is by invitation only. Invitations will be emailed to members and local City of Hamilton officials. Please send RSVP to greenup-openhouse.com@hamilton-oh.gov.

Sept. 21: Meldahl Open House – This event is open to the public. Invitations will be emailed to members. Please RSVP to meldahl-openhouse@hamilton-oh.gov.



Schuylkill Haven hosts a community safety day

Schuylkill Haven utility staff discuss safety and equipment during a community safety day event on Sept. 8. With more than 30 exhibitors and vendors attending, the event was held to familiarize residents with local fire, police, utility and medic staff.

Classifieds

Bucket truck for sale in Minster

The Village of Minster is selling a 2005 International 4400 Conventional Cab, 7.6L L6 diesel bucket truck. The truck has approximately 24,000 miles on the odometer and 4,400 hours logged.



The truck has a fiberglass utility body with aluminum floor, tailshelf body and understructure, and a Versalift VST 6000 material handler.

Unit is being sold as is and where is. Minimum acceptable price is \$65,000. Additional information can be obtained on the [Member Extranet](#) or by contacting John Neuman, electrical superintendent, at 419.305.2971.

Positions are open in Montpelier

The Village of Montpelier is accepting applications until Sept. 30 for the following positions.

Applications and resumes may be dropped off at the village offices at 211 N. Jonesville St., Montpelier, OH; or mailed to village manager, (specify Mechanic Job Opening or Waste Water Plant Operator Job Opening), PO Box 148, Montpelier, OH 43543. Both positions offer a benefits package. Complete job descriptions are available on the village [website](#). EOE.

Mechanic – Applicants must have a high school diploma or GED, a valid driver's license and the ability to obtain a Class A CDL endorsement. A combination of maintenance experience and/or training in the field of machinery, equipment and automotive repair or equivalent to perform maintenance on gasoline and diesel engines, and the ability to perform general design and fabrication for maintenance and installation for vehicles and equipment is required. The position is primarily day shift, but candidate may be subject to call-out in emergency situations.

Waste Water Plant Operator – Applicants must have a high school diploma or GED, a valid driver's license and the ability to obtain a Class B CDL endorsement, and hold a minimum of an Ohio EPA Class I Waste Water Operator's Certificate. The position is primarily day shift, but candidate will be required to be on call and able to work evenings, weekends and holidays when necessary.

City of Westerville seeks electric utility business manager

The City of Westerville seeks a qualified candidate to fill the position of electric utility business manager. The complete job description can be viewed [here](#).

This is a responsible managerial and administrative position with work responsibilities in budgeting, project management, strategic planning, and various functions for the Electric Division.

Work involves the application of annual budgeting, rate setting, project management principles, continual evaluation of internal controls and processes, cash forecasting, and serving as a member of the division's power supply procurement team. City council has designated the electric utility business manager as the American Municipal Power Board of Director's alternate for the electric utility manager.

Work is performed under the direction of the electric utility manager. Work is reviewed through performance appraisals, meetings, reports, special projects and analyses of results obtained. Supervision is exercised directly over the division's warehouse staff and support services coordinator.

Candidate must possess bachelor's degree in business, accounting or finance, with three to five years of responsible managerial and administrative experience in utility accounting and finance; or an equivalent combination of training and experience which provides the necessary knowledge and skills.

Interested candidates should apply on the Westerville [website](#) by Sept. 13.

Register now for Webinars



An internet connection and a computer are all you need to educate your entire staff for just \$99. Register today at [APPAAcademy.org](#). Non-APPA members enter coupon code **AMP** to receive the member rate.

- Governance Webinar Series: Performance Monitoring and Accountability for Boards **Sept. 8**
- Cyber & Physical Security Series: The Industrial Control Systems (ICS) Cyber Kill Chain and Lessons Learned from Ukraine **Sept. 13**
- Accounting & Finance Webinar Series: Performing a Utility Financial Check-Up **Sept. 28**
- Governance Webinar Series: Achieving Excellence in Public Power Governance **Oct. 5**
- Accounting & Finance Webinar Series: Sustainability Accounting and Reporting **Oct. 20**



News or Ads?

Call Kerin Scott at 614.540.6406 or email to kscott@amppartners.org if you would like to pass along news or ads.

Fw: Ohio Municipal League Legislative Bulletin

From: "Gregory J Heath" <gheath@napoleonohio.com>
To: "Roxanne Dietrich" <rdietrich@napoleonohio.com>

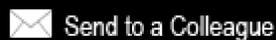
09/16/16 01:09 PM

-----Original Message-----

From: "Ohio Municipal League" <kscarrett@omloho.org>
To: gheath@napoleonohio.com
Date: 09/16/2016 01:04 PM
Subject: Ohio Municipal League Legislative Bulletin

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Legislative Bulletin

September 16, 2016

The Ohio legislature remains on a break which will continue until after the election in November, with the exception of a four week period scheduled for the weeks of September 26th to October 3rd. The Ohio Senate has scheduled session dates for Tuesday, Wednesday, and Thursday of those weeks. During these fall months, the members have been concentrating mainly on campaigning. Meanwhile, we have been fortunate to get many meetings with members despite the campaign season. We have met with dozens of General Assembly Members, our own members, and various committees to prepare for the lame duck session at the end of this year and the next General Assembly.

NET OPERATING LOSS REVIEW COMMITTEE MEETING

Ohio Tax Commissioner Joe Testa has announced that he is calling a second hearing of the Net Operating Loss Review Committee for September 22nd at 2:00 p.m. in Ohio Statehouse Room 114. All municipalities levying an income tax should have received a copy of the committee materials in the mail. If you have not received the information, you may access it [HERE](#). In the packet of information distributed to cities and villages by ODT, there is a letter to Commissioner Testa from the staff of ODT outlining their response to correspondence from the league and alternate proposals to the methodology adopted by the committee in May. The correspondence from the league to the Commissioner is available [HERE](#). OML and other interested parties will have the

ability to testify at the hearing and share thoughts and concerns about the alternate proposals to collect data on impacts related to the mandate on Ohio municipalities to provide a five year NOL carry forward policy for individuals and businesses via HB5.

LEGISLATION EFFECTING MUNICIPALITIES INTRODUCED

Three bills have been introduced since our last bulletin that we believe impacts municipalities. First is Senate Bill 342, introduced by Senator Cecil Thomas (D-Cincinnati) which grants municipal corporations the authority to impose a ban or restriction on the open carry or concealed carry of any firearm in a publicly secured area established by the municipal corporation during an event of regional or national significance being held in the municipal corporation.

Secondly, is a public safety related bill Senate Bill 350, introduced by Senator John Eklund (R-Munson Township), which would provide generally a testimonial privilege for communications between a qualified advocate rendering advocacy services and a victim of sexual violence, menacing by stalking, or domestic violence, to exempt the nondisclosure of that privileged communication from the offense of failure to report a crime, to require a qualified advocate to report knowledge or reasonable suspicion of child abuse or neglect of the victim except for privileged communications, and to specify circumstances in which the victim is considered to have waived the privilege.

Third, is Senate Bill 352, introduced by Senator Charletta Tavares (D-Cincinnati), which would require school zones to be indicated by signs equipped with flashing or other lights or that indicate the times during which the restrictive speed limit is enforced, and to make an appropriation for this purpose.

NEW MEMBERS ELECTED WITH MUNICIPAL BACKGROUNDS

The OML would like to welcome two new members to the General Assembly with substantial municipal experience. Both were elected by the Ohio House of Representatives on August 2, 2016 to fill empty seats for the remainder of the 131st General Assembly. First, was Derek Merrin, a former Mayor of Waterville, Ohio who will replace, in the 47th House District, Rep. Barbara Backus Sears (R-Sylvania) (a former Sylvania councilwoman herself) who is leaving to become Assistant Director of the Governor's Office of Health Transformation. Second was Theresa Charters Gavarone, a member of Bowling Green City Council, who will replace Rep. Tim Brown (R-Bowling Green), who is leaving to become president of the Toledo Metropolitan Area Council of Governments. Both will join the Ohio House of Representatives Republican Caucus. We're proud to have two former municipal officials added to the Ohio General Assembly!

OHIO'S RESEARCH INITIATIVE FOR LOCALS (ORIL) IS NOW ACCEPTING RESEARCH IDEAS FOR CONSIDERATION FOR THE UPCOMING FY 2018 PROGRAM.

Representatives from Ohio's local public agencies (townships, villages, cities, counties, MPOs or RPOs) may now submit ideas for transportation research. The ORIL Board will review all ideas submitted and select those that propose the greatest benefit for Ohio. Selected ideas will be developed into Requests for Proposals, which will be posted for response from the transportation research community in March 2017. Research projects may begin any time after July 2017.

Ideas may be submitted online. To access the Idea Submission Form and get additional information, [click here](#). Idea submissions must be received by 3:00PM on November 4, 2016 in order to be considered.

If you have any questions, please contact the ORIL program at ORIL@dot.ohio.gov or via phone at 614-466-3029 or 614-644-8135.

Ohio's Research Initiative for Locals (ORIL)
1980 West Broad St., MS 3280
Columbus, OH 43223

Phone: 614-466-3029 / 614-387-7358

Email: ORIL@dot.ohio.gov

<http://oril.transportation.ohio.gov>

TWO BOARD SPOTS OPEN ON THE OML'S PUBLIC SAFETY DIRECTORS ASSOCIATION

The OML would like to invite municipal public safety directors to apply for one of two spots available on the board of directors for the Ohio Association of Public Safety Directors, and affiliate of the OML. More information about this organization can be found at: www.oapsd.org.

Meetings & Conferences

Ohio Municipal Clerks Association One Day Academy	September 22, 2016 Mayfield Heights	<u>Registration</u>
Ohio Municipal League Annual Conference	October 26th ~ 28th, 2016	<u>Registration</u>
Municipal Finance Officers Annual Conference	October 27th ~ 28th, 2016	<u>Registration</u>
3 Hr Mayors Court Refresher Course	October 28th, 2016	<u>Registration</u>

[Ohio Municipal League](#)

Legislative Inquires:

[Kent Scarrett, Executive Director](#)

[Edward Albright, Deputy Director](#)

[Josh Brown, Director of Communications](#)

Ohio Municipal League, 175 S. Third Street, Suite 510, Columbus, OH 43215



September 15, 2016

Napoleon Alive is rolling out a new, fun event on February 4, 2017. It is WinterFEST - Snow Much Fun! In the quiet of the season, we want to light up the Armory, set your feet to dancing and your hands to clapping while we enjoy friends and fun, food and drinks, music and dancing. But that isn't all. We want to raise money to upgrade the welcome signage in Napoleon, thereby beautifying our fair city while providing informative and easily read signage for both locals and visitors. Our friends at City Hall will share the burden with us as it's larger than either of us can carry alone.

We need money to accomplish this goal. Can we count on you to be a sponsor and thereby help make this happen? We are offering the following sponsorship levels:

- Snowflake: \$1 to \$99 – business recognition and patronage during WinterFEST
- Flurry: \$100 to \$249 donation – 2 tickets plus business recognition before & during WinterFEST
- Storm: \$250 - \$999 donation – 4 tickets plus business recognition before & during WinterFEST
- Blizzard: \$1000 - \$1749 donation – 1 table of 8 plus business recognition before & during WinterFEST
- Whiteout: \$1750 - \$3000 donation – 2 tables of 8 plus business recognition before & during WinterFEST

You will be contacted by one of Napoleon Alive's Board members in the near future. Or, if you prefer, you may mail your contribution to Napoleon Alive at PO Box 820, Napoleon, OH 43545. We would appreciate a response by October 31, 2016, so we can finalize our plans. Any and all contributions will be gratefully accepted.

THANK YOU for your generous support of our community!!

.....Napoleon Alive, Inc. is a 501(c)3 organization; your contribution will be tax deductible.....

Please cut on line above and return.

Yes, I would like to make a tax-deductible contribution of \$_____ to the Napoleon Alive WinterFEST event.

Business Name _____

Contact Name _____

Address _____

Phone _____ Email _____

____ YES!! I am willing to donate some of my valuable time to Napoleon Alive.

Mail to:

Napoleon Alive, Inc., P.O. Box 820, Napoleon, OH 43545

Email: info@napoleonalive.org