

**FAIRFIELD CITY COUNCIL
REGULAR MEETING AGENDA
FAIRFIELD MUNICIPAL BUILDING
5350 PLEASANT AVENUE
FAIRFIELD, OHIO 45014**

Monday, October 26, 2015

7:00 PM

MAYOR.....STEVE MILLER
COUNCILMEMBER 1ST WARD.....ADAM B. JONES
COUNCILMEMBER 2ND WARD.....MARTY JUDD
COUNCILMEMBER 3RD WARD.....DEBBIE PENNINGTON
COUNCILMEMBER 4TH WARD.....TERRY SENGER

COUNCILMEMBER AT-LARGE...CHAD OBERSON
COUNCILMEMBER AT-LARGE...MIKE SNYDER
COUNCILMEMBER AT-LARGE...BILL WOESTE
CITY MANAGER.....MARK WENDLING
CLERK OF COUNCIL.....ALISHA WILSON
LAW DIRECTOR.....JOHN H. CLEMMONS

Guidelines for Citizen Comments: Thank you for your interest and participation in city government. Fairfield City Council's Guidelines for Citizen Comments describe the rules for addressing City Council. The guidelines are posted in the Council Chambers.

ADA Notice: The City of Fairfield is pleased to provide accommodations to disabled individuals or groups and encourage full participation in city government. Should special accommodations be required, please contact the Clerk of Council at 867-5383 at least 48 hours in advance of the meeting.

1. Call to Order

2. Prayer/Pledge of Allegiance

3. Roll Call

4. Agenda Modifications

5. Executive Session Requests

6. Special Presentations and Citizen Comments

- a) Hero's Ride Recap and Donation to Impact A Hero – Bill Meyer, Hero's Ride Chairperson
- b) Chamber of Commerce Update

7. Public Hearing(s)

8. Mayor/Council Reports

9. Approval of Minutes

- a) Regular Meeting Minutes of October 13, 2015

10. OLD BUSINESS

**(A) PARKS, RECREATION AND ENVIRONMENT COMMITTEE
Debbie Pennington, Chairman; Terry Senger, Vice Chairman, Marty Judd, Member**

- (1) Ordinance to authorize the City Manager to execute a professional services agreement with Brandstetter Carroll, Inc. for conceptual architectural/engineering services for the William Harbin Park Renovation Project.

- Ordinance – Third Reading
- Motion – Adoption

(B) **PUBLIC SAFETY COMMITTEE**

Adam Jones, Chairman; Marty Judd, Vice Chairman, Terry Senger, Member

- (1) Resolution authorizing the transfer of ownership of duty weapon, Glock model 19 handgun, serial number XTP820, to retired Park Ranger Michael J. Kraft in recognition of his years of service to the City and its residents.
 - Resolution – Second Reading
 - Motion – Suspend Third Reading
 - Motion – Adoption

11. **NEW BUSINESS**

(A) **FINANCE & BUDGET COMMITTEE**

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

- (1) Ordinance to amend Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio effective January 1, 2016 for Tax Years 2016 and after.
 - Motion – Read by Title Only (Optional)
 - Ordinance – First Reading
- (2) Ordinance to amend Ordinance No. 109-14 entitled “An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015.”

*Non-Contractual Appropriations - \$39,500 Hypress ram-style screening press replacement for Wastewater Treatment Plant; \$15,000 for improvements to the Village Green Park/Town Center Campus; \$5,335 for upgrades and maintenance at the Community Arts Center.

- Motion – Read by Title Only (Optional)
- Ordinance – First Reading
- Motion – Suspend Second and Third Readings
- Motion – Adoption

12. **Meeting Schedule**

Monday, November 9	Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
Monday, November 23	Council-Manager Briefing, 5:30 p.m.; Regular Meeting, 7:00 p.m.
Monday, December 7	Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.

13. **Executive Session of Council (if needed)**

14. **Adjournment**

AGENDA

**COUNCIL-MANAGER BRIEFING
FAIRFIELD MUNICIPAL BUILDING
5350 PLEASANT AVENUE**

**MONDAY, OCTOBER 26, 2015
6:00 P.M.**

1. Harbin & Marsh Park Conceptuals - Jim Bell

MINUTES
REGULAR MEETING OF COUNCIL
OCTOBER 13, 2015

Call to Order

Mayor Steve Miller called the Regular Meeting of Council to order at 7:00 PM at the Fairfield Municipal Building, 5350 Pleasant Avenue.

Prayer/Pledge of Allegiance

Councilmember Pennington led in prayer and Pledge of Allegiance.

Roll Call

Clerk Wilson called the roll of Council. Present members were Councilmember Adam Jones, Councilmember Debbie Pennington, Councilmember Terry Senger, Councilmember Chad Oberson, Councilmember Mike Snyder, and Councilmember Bill Woeste.

Councilmember Jones, seconded by Councilmember Senger, moved to excuse Councilmember Judd. Motion carried 6-0.

Agenda Modifications

No agenda modifications.

Executive Session Requests

No Executive Session requests.

Special Presentations and Citizen Comments

Richard's Pizza 60th Anniversary Proclamation

Mayor Miller presented a proclamation and Key to the City to the Underwood Family, owners of Richard's Pizza. He thanked them for opening a location in Fairfield and wished them continued success. The Underwoods presented Mayor Miller with a birthday card to the City of Fairfield, to celebrate the city's 60th anniversary.

Say Something Week Proclamation

Councilmember Oberson read the Say Something Week proclamation and encouraged everyone to participate in anti-bullying events, as well as to speak up if they notice something unusual with a friend or family member.

Chamber of Commerce Update

President Kert Radel thanked the city for their support of the Business Showcase and Luncheon. The event was very successful and he appreciates all the support from city staff and officials.

Public Hearing(s)

No public hearings.

Mayor/Council Reports

Councilmember Jones introduced Carolyn Coley and they explained an event called "Empty Bowls" that will be coming to Fairfield to raise money and awareness for hunger issues. This is an international, grassroots event. The fundraising event will be held on November 7.

Councilmember Pennington announced the 60th Anniversary events that will be held on October 16 and October 20 at the Community Arts Center. There will also be several displays, beginning October 14. On October 16 will be the 1955 Diner and DJ and concert at the theater. On October 20 will be a cake cutting and Post Office cancellation event.

Councilmember Senger commented that he doesn't have a report, but he is very happy to hear so much good news for the city.

Councilmember Oberson reported that Gray Road will be paved next week and there is construction on Nilles Road by Rt. 4.

Councilmember Snyder reported that the Pumpkin Patch Festival will be held at Harbin Park from 1:00-5:00 PM and does require a ticket. Also, trick-or-treat will be on Saturday, October 31 from 6:00-8:00 PM.

Councilmember Woeste thanked Mrs. Coley and his fellow councilmembers for their efforts with the Empty Bowls event.

Approval of Minutes

Regular Meeting Minutes of September 28, 2015

- The Regular Meeting Minutes of September 28, 2015 were approved as written

OLD BUSINESS

DEVELOPMENT SERVICES COMMITTEE

Bill Woeste, Chairman; Adam Jones, Vice Chairman, Mike Snyder, Member

Ordinance to amend Chapters 1159, 1165 and 1168 of the Zoning Code of Ordinance No. 166-84, the Codified Ordinances of Fairfield, Ohio relative to definitions and principal permitted and conditional uses in the C-2 Central Business District, C-3 General Business District, C-3A General Business District Modified, and D-1 Downtown, Zoning Districts.

Councilmember Bill Woeste, seconded by Councilmember Mike Snyder moved to amend the ordinance based on the Planning Commission recommendation. Motion Carried 6-0.

Legislative Action: Councilmember Woeste presented the third reading of this ordinance. Councilmember Bill Woeste, seconded by Councilmember Chad Oberson moved to adopt. Motion Carried 6-0. ORDINANCE NO. 89-15. APPROVED 6-0.

Ordinance to authorize the City Manager to execute the FY 2016 Community Development Block Grant (CDBG) application and agreement and declaring an emergency.

Legislative Action: Councilmember Woeste presented the third reading of this ordinance.

Councilmember Bill Woeste, seconded by Councilmember Chad Oberson moved to adopt. Motion Carried 6-0. ORDINANCE NO. 90-15. APPROVED 6-0.

PARKS, RECREATION AND ENVIRONMENT COMMITTEE
Debbie Pennington, Chairman; Terry Senger, Vice Chairman, Marty Judd, Member

Ordinance to authorize the City Manager to execute a professional services agreement with Brandstetter Carroll, Inc. for conceptual architectural/engineering services for the William Harbin Park Renovation Project.

Legislative Action: Councilmember Pennington presented the second reading of this ordinance.

NEW BUSINESS

COMMUNITY & PUBLIC RELATIONS COMMITTEE
Mike Snyder, Chairman; Bill Woeste, Vice Chairman, Debbie Pennington, Member

Simple Motion: Motion to re-appoint Dave Butsch and Don Hassler to the Butler County Transportation Improvement District effective October 13, 2015 and expiring October 12, 2017.

Councilmember Snyder, seconded by Councilmember Pennington, moved to approve the simple motion. Motion carried 6-0. SIMPLE MOTION NO. 10-15. APPROVED 6-0.

PUBLIC SAFETY COMMITTEE
Adam Jones, Chairman; Marty Judd, Vice Chairman, Terry Senger, Member

Councilmember Adam Jones, seconded by Councilmember Debbie Pennington moved to read the following resolution and ordinance by title only. Motion Carried 6-0.

Resolution authorizing the transfer of ownership of duty weapon, Glock model 19 handgun, serial number XTP820, to retired Park Ranger Michael J. Kraft in recognition of his years of service to the City and its residents.

Background: City Manager Wendling recommended a resolution to authorize the transfer of ownership of duty weapon to Michael Kraft, in recognition of his retirement. This is allowed for other law enforcement officers as part of their bargaining agreement, however, Park Rangers are in a different bargaining unit, so Council action is required. Legislative Action: Councilmember Jones presented the first reading of this resolution.

Mayor Miller stated it would be nice to consider suspension of the third reading and adoption at the next meeting, so the weapon can be presented during that meeting.

Ordinance to authorize the City Manager to execute an agreement for indigent legal representation for 2016 in the Fairfield Municipal Court with the Butler County Public Defender Commission/Butler County Board of Commissioners and declaring an emergency.

Background: City Manager Wendling recommended an ordinance to execute an agreement with Butler County to provide for legal representation of indigent defendants in the Fairfield Municipal Court. This is

a yearly agreement that saves the city a significant amount of money. Legislative Action: Councilmember Jones presented the first reading of this ordinance.

Councilmember Adam Jones, seconded by Councilmember Chad Oberson moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 6-0. Councilmember Adam Jones, seconded by Councilmember Chad Oberson moved to adopt. Motion Carried 6-0. ORDINANCE NO. 91-15. APPROVED 6-0.

FINANCE & BUDGET COMMITTEE

Terry Senger, Chairman; Debbie Pennington, Vice Chairman, Chad Oberson, Member

Ordinance to amend Ordinance No. 109-14 entitled "An Ordinance to make estimated appropriations for the expenses and other expenditures of the City of Fairfield, Ohio, during a period beginning January 1, 2015, and ending December 31, 2015."

Councilmember Terry Senger, seconded by Councilmember Debbie Pennington moved to read the following ordinance by title only. Motion Carried 6-0.

Background: City Manager Wendling recommended the following Non-Contractual Appropriations - \$3,264 Replace Existing Curb Ramps; \$10,000 Neighborhood Improvements; \$12,500 Replacement of Traffic Monitoring Work Stations; \$11,000 Repair and Additions to Security and Entry System. Legislative Action: Councilmember Senger presented the first reading of this ordinance.

Councilmember Terry Senger, seconded by Councilmember Adam Jones moved to suspend the rules requiring three (3) readings of this ordinance. Motion Carried 6-0. Councilmember Terry Senger, seconded by Councilmember Adam Jones moved to adopt. Motion Carried 6-0. ORDINANCE NO. 92-15. APPROVED 6-0.

Meeting Schedule

Clerk Wilson read the following meeting schedule:

- Monday, October 26 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
- Monday, November 9 Council-Manager Briefing, 6:00 p.m.; Regular Meeting, 7:00 p.m.
- Monday, November 23 Council-Manager Briefing, 5:30 p.m.; Regular Meeting, 7:00 p.m.

Executive Session of Council (if needed)

No Executive Session.

Adjournment

The regular meeting adjourned at 7:35 PM.

ATTEST:

Clerk of Council

Date Approved _____

Mayor's Approval

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION**

ITEM:

DATE: 9/28/15

An appropriation to fund a professional services agreement with Brandstetter Carroll, Inc., for conceptual architectural/engineering services for the William Harbin Park Renovation project.

FINANCIAL IMPACT:

A financial appropriation in the amount of \$50,000.00 is necessary to fund this proposal.

SYNOPSIS:

This project will provide a conceptual design for the proposed renovations at William Harbin Park.

BACKGROUND:

William Harbin Park was dedicated in the late-1970's and the majority of the structures and/or amenities in the park were constructed during the first 10 years of the park's existence and have become dated. As identified in the recently completed Comprehensive Parks and Recreation Master Plan; "taking care of what we have" and "improving and expanding trails and connections" were major points of emphasis by the residents. This project will provide the base line for the renovation of Harbin Park to meet the on-going needs of the community and includes the following elements:

- A. Three (3) public input meetings; two meetings to solicit public input from citizens and/or user groups and one input meeting to review conceptual design draft with City Council/Parks and Recreation Board.
- B. Various meetings with city team.
- C. Detailed plan to provide pedestrian and/or bicycle connectivity to various adjacent neighborhoods; along with perimeter paved bike/hike path plan.
- D. Recommendations for parking, ingress/egress of park, re-purposing of farm barn and ranger building, shelter house renovations, signage, existing site amenities, future site amenities, etc.
- E. Detailed site plan to encompass all design and landscape elements.
- F. Construction Cost Estimates (based upon 2016 dollars).
- G. Recommendations regarding phasing of purposed renovation/development; recommendations for grant sources to accomplish specific project elements; along with separate costs to prepare/submit grants on behalf of the city.

This project has been authorized by the City through its 2015-2019 Capital Improvement Program (PRK-15-005); along with being identified in the 2014 Comprehensive Parks and Recreation Master Plan. The Parks and Recreation Department solicited Request for Proposals for the project in the summer of 2015. Three architectural firms submitted proposals and were interviewed by the Selection Committee; comprised of the City Manager, the Parks and Recreation Director, the Development Services Director, the Economic Development Manager, the Parks and Facilities Manager, and the Parks Operations Coordinator. The Selection Committee made its recommendation to the Parks and Recreation Board at their September meeting.

At the Parks and Recreation Board's September 15th meeting, the Board passed Resolution 2015-07 in support of the William Harbin Park Renovation project and the selection of Brandstetter Carroll, Inc.; and have forwarded their recommendation to City Council.

RECOMMENDATION:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the appropriation necessary to fund this proposal in accordance with the proposal on file in the office of the City Manager.

LEGISLATIVE ACTION:

Suspension of Rules and Adoption Requested? If yes, explain above. Yes | | No [X]

Emergency Provision Needed? If yes, explain above. Yes | | No [X]

Prepared by: J. Bell
Approved for Content by: J. Bell
Financial Review (where applicable): May Hagan
Legal Review (where applicable): Scott H. Cummings
Accepted for Council Agenda: H. Hagan

FAIRFIELD PARKS AND RECREATION BOARD

BE IT RESOLVED by the Fairfield Parks and Recreation Board that the City Manager is authorized to enter into an agreement with Brandstetter Carroll Inc. for the City of Fairfield, William Harbin Park Renovation Project, in accordance with the bids on file in the office of the City Manager.

ROLL CALL	YES	NO
Doug Meece	<u>✓</u>	<u> </u>
Robert Myron	<u>✓</u>	<u> </u>
Debbie Pennington	<u>✓</u>	<u> </u>
Craig Keller	<u>✓</u>	<u> </u>
Dean Bruewer	<u> </u>	<u> </u>
Billy Smith	<u>✓</u>	<u> </u>

Doug Meece, Chairman / Doug Meece

Cyndi Kreke, Secretary / Cyndi Kreke

Resolution: 2015-07

Date: 09/15/2015

Project Number: PRK-15-005 **Dept:** PARKS **Bid Date:** 03/01/2015 **Priority:** Minor **Need:** Quality Of Life Development Driven

Harbin Park Renovations
Renovations at Harbin Park

2015 - Conceptual design services for Harbin Park renovations
2017-2019 - Shelter house renovations / upgrades, perimeter path and barn relocation

	2015	2016	2017	2018	2019
	\$50,000.00	\$0.00	\$100,000.00	\$100,000.00	\$100,000.00



City Funding Source:
Capital Improvement Fund **Amount:** \$150,000.00
Outside Funding Source:
State Grant **Amount:** \$200,000.00

Planning / Engineering / Legal: \$50,000.00 **Impact On Operating Personnel Costs:** \$0.00
Acquisition of Property / ROW: \$0.00
Construction: \$400,000.00 **Other Costs:** \$0.00
Equipment / Vehicle: \$0.00 **Total Operating Costs:** \$0.00

City's Cost: \$150,000.00 **Outside Funding:** \$200,000.00 **Total Cost:** \$350,000.00

CITY OF FAIRFIELD, OHIO
WILLIAM HARBIN PARK RENOVATION
REQUEST FOR PROPOSAL
CONCEPTUAL ARCHITECTURAL/ENGINEERING SERVICES

1.0 Invitation

The City of Fairfield invites experienced architectural and engineering firms to submit proposals for professional services for the conceptual design of the William Harbin Park Renovation Project. This is a Request for Proposal (RFP).

2.0 Project Background

This conceptual design project has been authorized by the City of Fairfield, with funding for these services totaling approximately \$50,000.00 for the Harbin Park renovations. William Harbin Park is located at 1300 Hunter Road, Fairfield, Ohio 45014 and is approximately 260 acres, including Muskopf Preserve.

In 2014, the City retained the services of the Indiana University/Eppely Institute for Parks and Public Lands, to conduct a Comprehensive Parks and Recreation Master Plan and Needs Assessment. A copy of the Master Plan is available for review on the City's website at <http://www.fairfield-city.org/parks/index.cfm>.

3.0 Scope of Services

The scope of services, for the conceptual design of the Project, will include:

- A. Three (3) public input meetings; two meetings to solicit public input from citizens and/or user groups and one input meeting to review conceptual design draft with City Council/Parks and Recreation Board.
- B. Various meetings with city team.
- C. Detailed plan to provide pedestrian and/or bicycle connectivity to various adjacent neighborhoods; along with perimeter paved bike/hike path plan.
- D. Recommendations for parking, ingress/egress of park, re-purposing of farm barn and ranger building, shelter house renovations, signage, existing site amenities, future site amenities, etc.
- E. Detailed site plan to encompass all design and landscape elements.
- F. Construction Cost Estimates (based upon 2016 dollars).
- G. Recommendations regarding phasing of purposed renovation/development; recommendations for grant sources to accomplish specific project elements; along with separate costs to prepare/submit grants on behalf of the city.

4.0 Instructions to Proposers

Sealed proposals will be accepted until **3:00 PM, EST, Monday, June 29, 2015**. Proposals received after that time will not be accepted. Three copies of the proposal should be submitted to:

City of Fairfield, Ohio
Parks and Recreation Department
411 Wessel Drive
Fairfield, Ohio 45014

Concise and focused proposals are suggested with a target length of no more than 20 pages, including samples of previous work. Proposals should include, in a clearly marked separate and sealed envelope, a description of the estimated fee schedule based upon estimated project cost of \$50,000.00 and scope of services. The fee schedule should be on a **not-to-exceed** basis. Indicate the basis and approach regarding the fee structure for the various components of the project's scope of services.

5.0 Proposal Format

Proposals shall be relevant and concise. To facilitate the evaluation process, the following format will be required:

5.1 Brief Description of the Prime Design/Engineering Firm

- A. Name of business and office location
- B. Length of time in business
- C. Total number of local and other employees
- D. Name of principals, their disciplines and Ohio registration
- E. Professional services provided by the firm

5.2 Sub-consultants

Please list any firms that will act as sub-consultants to your firm, its specialty areas, location of office, number of employees, and firm's experience related to this project. Provide information regarding prior projects on which sub-consultants have worked with your firm.

5.3 Project Team

- A. List those individuals who will do the work on this project. Provide the following information for each team member: Team Assignment, General and Professional Qualifications, Project Experience (relevant to this project while with this firm).

5.4 Relevant Project Experience

- A. Include brief descriptions of all park renovations projects completed within the past five years, including:
 - 1. Name of client, contact person and telephone number.
 - 2. Location.
 - 3. Projected design and construction budget. Actual design and construction budget.
 - 4. Completion date and indicate if project was completed on schedule.
 - 5. Indicate whether the design process included conducting public meetings.
 - 6. Indicate design problems encountered and solutions to those problems.

5.5 Project Approach

Indicate the steps the firm will undertake to accomplish the project scope of services and tasks. Discuss the firm's unique ability, if any, to professionally and effectively design the proposed project.

6.0 Selection and Award

Proposals will be accepted until **3:00 PM, EST, Monday, June 29, 2015**, at the location listed in 4.0 of this RFP. A staff selection committee will review the proposals and recommend the awarding of the project to the Fairfield Parks and Recreation Board and the Fairfield City Council. The final award of the project will be approved by the Fairfield City Council. Evaluation criteria will be based upon the firm's qualifications, experience, comparable projects, professional design approach and philosophy to address the scope of services, and fee schedule.

The City of Fairfield reserves the right to evaluate the proposals submitted, reject any or all proposals, or to correct or waive irregularities in proposals should it be deemed in the best interest of the City to do so.

7.0 City Contact

Questions may be directed to James A. Bell, Parks and Recreation Director, 411 Wessel Drive, Fairfield, Ohio 45014. Contact phone number is (513) 867-5348 and fax number is (513) 867-6070. Contact's e-mail address is jbell@fairfield-city.org.

FEES AND CONDITIONS

FEES AND CONDITIONS

A. Fees

The proposed fees are listed below by phase.

A. Fees by Phase

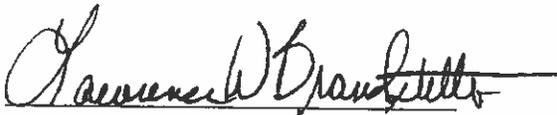
	<u>Fee</u>
Phase 1	
1. Planning Context & Site Analysis	\$14,600
2. Public Engagement	\$8,600
3. Conceptual Alternative Plans Phase	\$10,500
4. Preliminary Master Plan Phase	\$8,000
5. <u>Final Master Plan Phase</u>	<u>\$8,300</u>
Total Fee	\$50,000

B. Conditions

1. The Owner will provide and coordinate the invitations, meeting space and promotion of public input meetings, stakeholder meetings, and client review meetings.
2. Any additional copies of Draft and Final Reports that are requested by the Owner will be billed to the Owner at the actual printing and preparation costs.
3. The Owner will provide digital base maps in ARCGIS of the entire park site for use by the Consultant.
4. The Consultant will be paid monthly based on the percentage of work completed in the previous month.
5. The Owner will provide the Consultant with copies of previous studies related to the delivery of parks and recreation services, attendance figures, budgets, capital expenditure lists, and other data.
6. This proposal will remain valid for 60 days from the due date of June 29, 2015.

This Proposal is proposed by:

Brandstetter Carroll Inc.



Lawrence, W. Brandstetter, AIA, President

ORDINANCE NO. _____

ORDINANCE TO AUTHORIZE THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH BRANDSTETTER CARROLL, INC. FOR CONCEPTUAL ARCHITECTURAL/ENGINEERING SERVICES FOR THE WILLIAM HARBIN PARK RENOVATION PROJECT.

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager is hereby authorized to execute a professional services agreement with Brandstetter Carroll, Inc. for conceptual architectural/engineering services for the William Harbin Park Renovation Project in accordance with the proposal on file in the office of the City Manager.

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____

Mayor's Approval _____

Posted _____

First Reading _____

Rules Suspended _____

Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION**

ITEM: Award of Firearm to Park Ranger (Retired) Michael J. Kraft

October 13, 2015

FINANCIAL IMPACT:

Cost of the firearms and accessories is \$409.00

BACKGROUND:

Police officers with 15 or more years of service to the City of Fairfield are given their duty firearm upon retirement. The authority for this transfer of property is the labor contract with the FOP. Park Ranger Michael J. Kraft retired on January 3, 2015 with 23 years of service. As a member of AFSCME, his labor contract does not contain this provision; therefore a legislative act by council is required to provide this same benefit as other law enforcement officers of the city.

RECOMMENDATION:

It is recommended that Council pass a resolution authorizing the transfer of ownership of his duty weapon, Glock model 19 handgun, serial number XTP820, to retired Park Ranger Michael J. Kraft.

LEGISLATION ACTION:	Suspension of Rules and Adoption Requested?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		YES	NO
	Emergency Provision Needed?	<input type="checkbox"/>	<input checked="" type="checkbox"/>
		YES	NO

Prepared by: Michael J. Dickey, Chief of Police

Approved for Content by: Michael J. Dickey, Chief of Police

Financial Review (where applicable): Mary Hopton, Director of Finance

Legal Review (where applicable): John Clemmons, Law Director

Accepted for Council Agenda: Alisha Wilson, Clerk of Council

Michael J. Dickey

Mary Hopton

John A. Clemmons

Alisha Wilson

RESOLUTION NO. _____

RESOLUTION AUTHORIZING THE TRANSFER OF OWNERSHIP OF DUTY WEAPON, GLOCK MODEL 19 HANDGUN, SERIAL NUMBER XTP820, TO RETIRED PARK RANGER MICHAEL J. KRAFT IN RECOGNITION OF HIS YEARS OF SERVICE TO THE CITY AND ITS RESIDENTS.

WHEREAS, Park Ranger Michael J. Kraft retired on January 3, 2015 after twenty-three years of service to the City, and

WHEREAS, other law enforcement officers of the City who retire after fifteen years of service are awarded their duty firearm.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fairfield, Ohio, that:

Section 1. The City Manager and Police Chief are hereby authorized to transfer ownership of the duty weapon, Glock model 19 handgun, serial number XTP820 to retired Park Ranger Michael J. Kraft in recognition of his years of service to the City and its residents.

Section 2. This Resolution shall take effect at the earliest period allowed by law.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Resolution has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL COMMUNICATION**

ITEM:

October 26, 2015

Amendments to the Codified Ordinance Section 181 – Income Tax to be effective for taxable years beginning on or after January 1, 2016.

FINANCIAL IMPACT:

The amendments in Chapter 181 will have minimal financial impact to the City.

SYNOPSIS:

HB 5 was passed in December, 2014 changing the provisions of Chapter 718 of the ORC will take effect January 1, 2016 and thereafter. There are requirements within 718 that mandate a municipality’s ordinance be parallel with the ORC with some local exceptions, such as tax rate, mandatory filing, taxability of stock options, taxability of shareholder distributive share for S corporations, frequency of remitting withholding payments, and credit for taxes paid to other municipalities. Of those exceptions, all but the frequency of remitting withholding payments has been voted on by the residents of Fairfield or City Council.

BACKGROUND:

HB 5 was an ongoing issue for many years. The Ohio Society of CPA’s as well as the Ohio Chamber of Commerce were heavily involved in the crafting of the language. The Ohio Municipal League and municipal tax representatives worked with the proponents of the HB 5 to make sure the changes had the least amount of financial impact to municipalities already hurting from State funding cuts. Fortunately, the concept of centralized state collection of local income tax was removed in the early stages of the discussions; however, there are still provisions with the 718 that will impact municipality funding.

As these changes are voluminous in wording, the City’s ordinance is going from a mere 19 pages (effective for taxable years prior to January 1, 2016), plus an additional 66 pages (effective for taxable years on or after January 1, 2106). In order to preserve the unique items within the City’s ordinance, the changes are required to be effective January 1, 2016.

RECOMMENDATIONS:

It is recommended that City Council adopt the changes to Section 181 – Income Tax, as submitted.

LEGISLATIVE ACTIONS:

Suspension of Rules & Adoption Requested?	No
Emergency Provision Needed?	No

Prepared by: Mary Hagan

Approved for Content by: Mary Hagan

Financial Review (where applicable) by: Mary Hagan

Legal Review (where applicable) by: John H. Coleman

Accepted by Council Agenda: Mark Wilson

ORDINANCE NO. _____

ORDINANCE TO AMEND CHAPTER 181, INCOME TAX, OF
ORDINANCE NO. 166-84, THE CODIFIED ORDINANCES OF
FAIRFIELD, OHIO EFFECTIVE JANUARY 1, 2016 FOR TAX
YEARS 2016 AND AFTER.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, 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 municipalities 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 that 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 Chapter 718;” and

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

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in 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 Fairfield, Ohio, that:

Section 1. Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, is hereby amended effective January 1, 2016 for tax years 2016 and after to read as follows:

See attached Exhibit "A" which is incorporated herein by reference.

Section 2. Existing Chapter 181, Income Tax, of Ordinance No. 166-84, The Codified Ordinances of Fairfield, Ohio, is specifically not repealed and shall remain in effect for all tax years prior to 2016. Existing Chapter 181 shall not be included in the Codified Ordinances publication but will be made available on the City's website.

Section 3. This Ordinance shall take effect at the earliest period allowed by law with effective date for the amendment itself as stated in Section 1 above.

Passed	_____	_____
		Mayor's Approval
Posted	_____	
First Reading	_____	Rules Suspended _____
Second Reading	_____	
Third Reading	_____	

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council

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181.01	Purpose.	181.10	Interest and penalties.
181.02	Definitions.	181.11	Collection of unpaid taxes; refund of overpayments.
181.03	Imposition of tax.	181.12	Board of Review.
181.04	Effective period.	181.13	Credit for tax paid to another municipality.
181.05	Return and payment of tax.	181.14	Reports required on tenants and lessees.
181.06	Collection at source.	181.15	Severability.
181.07	Declarations.	181.99	Penalty.
181.08	Duties of the Administrator.		
181.09	Investigative powers of the Administrator; divulging confidential information.		

181.01 PURPOSE.

(a) There is hereby levied a tax on all qualifying wages, commissions and other compensation, and on net profits, as hereinafter provided, in the sum of one and one-half percent (1-1/2%) apportioned as follows:

- (1) One and two-tenths percent (1.2%) of the tax to provide funds for the purposes of general Municipal operations, maintenance of equipment, extension and enlargement of Municipal services and facilities, and capital improvements of the City.
- (2) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of capital improvements and the retirement of debt.
- (3) Fifteen one-hundredths of one percent (0.15%) of the tax to be used for the purposes of street improvement, reconstruction and repair.

(b) As to the use of these funds, "Capital Improvement" shall be defined as any property, asset or improvement with an estimated life or usefulness of five years or more, including land and interests therein, and including reconstructions, enlargements and extensions thereof having an estimated life or usefulness of five years or more. Reconstruction for street purposes includes the resurfacing, but not the ordinary repair, of streets.

(c) The revised apportionment of the municipal income tax specified in paragraph (a) above shall be effective for municipal income tax revenue received on or after January 1, 2013. (Ord. 31-12. Passed 4-9-12.)

(d) Ordinance XX-15 does not repeal the existing sections of Chapter 181 for any taxable year prior to 2016, but rather amends Chapter 181 effective January 1, 2016. For municipal taxable years beginning before January 1, 2016, the Municipality shall continue to administer, audit, and enforce the income tax of the Municipality under ORC 718 and ordinances and resolutions of the Municipality as that chapter and those ordinances and resolutions existed before January 1, 2016. Any provisions of this chapter modified for years beginning on or after January 1, 2016 will be noted accordingly.

181.02 DEFINITIONS.

(a) 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

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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, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

- (1) “Adjusted Federal Taxable Income” means a C corporation’s Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, but including subsequent adjustments from required additions and deductions under Section 718.01(A)(1). Pass-through entities must compute adjusted Federal taxable income as if the pass-through entity was a C corporation. This definition does not apply to any taxpayer required to file a return under Ohio Revised Code Section 5745.03 or to the net profit from a sole proprietorship.
- (2) “Administrator” means the individual designated by this chapter, and having the direct responsibility to administer and enforce the provisions of this chapter.
- (3) “Assessment” means any of the following:
 - A.
 1. 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;
 2. A full or partial denial of a refund request issued under Section 181.056 (B)(2) of this Chapter;
 3. A Tax Administrator’s denial of a taxpayer’s request for use of an alternative apportionment method, issued under Section 181.03A2(B)(2) of this Chapter; or
 4. A Tax Administrator’s requirement for a taxpayer to use an alternative apportionment method, issued under Section 181.03A2(B)(3) of this Chapter.
 5. 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 181.12A of this Chapter, and shall have “ASSESSMENT” written in all capital letters at the top of such finding.
 - B. This does not include notice(s) denying a request for refund issued under Section 181.056 (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.
- (4) “Association” means a partnership, limited partnership, limited liability company, S corporation or any other form of unincorporated enterprise, owned by two or more persons.

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- (5) “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
- (6) “Board of Review” means the Board created by and constituted as provided in Section 181.12 and has same meaning as “Local Board of Tax Review”.
- (7) “Business” means an enterprise, activity, profession, or undertaking of any nature, conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation, or any other entity including, but not limited to, the renting and leasing of property, real, personal or mixed.
- (8) “Calendar Quarter” means the three-month period ending on the last day of March, June, September, or December.
- (9) “Casino Operator” and “Casino Facility” have the same meanings as in section 3772.01 of the Ohio Revised Code.
- (10) “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.
- (11) “City” means the City of Fairfield, Ohio.
- (12) “Compensation” means any form of remuneration paid to an employee for personal services.
- (13) “Corporation” means a corporation or joint stock association organized under the laws of the United States, the state of Ohio, or any other state, territory, or foreign country or dependency.
- (14) “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.
- (15) “Domicile” means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. A taxpayer has only one domicile even though he may have more than one residence.
- (16) “Employee” means one who works for wages, salary, commission or other type of compensation for the service of an employer.
- (17) “Employer” means an individual, partnership, association, corporation, governmental body, unit, or agency, or any other entity, whether or not organized for profit, and including the officers and senior resident manager, who or which employs one or more persons on a salary, wage, commission or other compensation basis.
- (18) “Fiscal year” means an accounting period of twelve months or less, ending on any other day than December 31.
- (19) “Form 2106” means internal revenue service form 2106 filed by a taxpayer pursuant to the Internal Revenue Code.
- (20) “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.

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- (21) “Gross receipts” means the total income from any source whatsoever.
- (22) “Income” means the following:
- A.
 - 1. 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.
 - 2. 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.
 - (c) 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) or division 14(E) of this Section.
 - (d) 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

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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 181.131 of this Chapter.

- (23) "Income from pass-through entity" means partnership income of partners, membership interests of members of a limited liability company, distributive shares of shareholders of an S corporation, or other distributive or proportionate ownership shares of income from other pass-through entities.
- (24) "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.
- (25) "Internal Revenue Code" means the "Internal Revenue Code of 1986," 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
- (26) "Internet" means the International Computer Network of both federal and non-federal interoperable packet switched data networks, including the graphical sub-network known as the World Wide Web.
- (27) "Joint Economic Development District or Zone" means a District or Zone created under Ohio Revised Code Sections 715.70, 715.71 and 715.73, as amended from time to time.
- (28) "Limited Liability Company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under the laws of another state.
- (29) "Local Board of Tax Review" and "Board of Tax Review" means the entity created under Section 181.12A of this Chapter..
- (30) "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

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development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(31) “Municipality” means the City of Fairfield, Ohio.

(32) A. “Municipal Taxable Income” means the following:

1. 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 situated to the Municipality under Section 181.03A2 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

2. (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.

3. 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 situated to the Municipality under Section 181.03A2 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

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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.

- (33) “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.
- (34) A. “Net Profit” for a person other than an individual means adjusted federal taxable income.
- B. “Net Profit” for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division , 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. 1. 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.
2. 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.
3. 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

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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.

4. 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.
 5. 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.
 6. 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.
- (35) “Non-qualified deferred compensation plan” means a compensation plan described in Section 3121(v)(2)(C) of the Internal Revenue Code.
- (36) “Nonresident” means an individual that is not a resident of the Municipality.
- (37) “Nonresident incorporated business entity” means an incorporated business entity not having an office or place of business within the City.
- (38) “Nonresident unincorporated business entity” means an unincorporated business entity not having an office or place of business within the City.
- (39) “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.
- (40) “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.
- (41) “Owner” means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.
- (42) “Owner’s proportionate share”, with respect to each owner of a pass-through entity, means a ratio of:
- A. The owner’s income from the pass-through entity that is subject to

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taxation by the City, to

- B. The total income from that entity of all owners whose income from the entity is subject to taxation by the City.
- (43) “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.
- (44) “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.
- (45) “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. Whenever used in any clause prescribing and imposing a penalty, the term “person”, as applied to an unincorporated entity, shall mean the partners or members thereof, and, as applied to corporations, the officers thereof.
- (46) “Place of business” means any bona fide office, other than a mere statutory office, factory, warehouse, or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.
- (47) “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.
- (48) “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
- (49) 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.

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- (50) “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.
- (51) “Qualifying wages” means wages, as defined in Section 3121 of the Internal Revenue Code, without regard to any wage limitations, adjusted in accordance with Section 718.03(A) of the Ohio Revised Code.
- (52) “Related Entity” means any of the following:
- A. An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - B. A stockholder, or a stockholder's partnership, estate, trust, or corporation, if the stockholder and the stockholder's partnerships, estates, trusts, or corporations own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the taxpayer's outstanding stock;
 - C. A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock;
 - D. The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.
- (53) “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.
- (54) “Resident” means an individual who is domiciled in the Municipality as determined under Section 181.032 of this Chapter.
- (55) “Resident incorporated business entity” means an incorporated business entity having an office or place of business within the City.
- (56) “Resident unincorporated business entity” means an unincorporated business entity having an office or place of business within the City.
- (57) “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.

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- (58) “Schedule C” means internal revenue service schedule C (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (59) “Schedule E” means internal revenue service schedule E (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (60) “Schedule F” means internal revenue service schedule F (form 1040) filed by a taxpayer pursuant to the Internal Revenue Code.
- (61) “Single Member Limited Liability Company” means a limited liability company that has one direct member.
- (62) “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.
- (63) “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.
- (64) “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 .
- (65) “Taxable Year” means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.
- (66) A. “Taxpayer” means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. The singular shall include the plural, and the masculine shall include the feminine and the neuter. “Taxpayer” does not include a grantor trust or, except as provided in division (47)(B)(i) of this section, a disregarded entity.

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- B. 1. 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.
2. 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.
- (67) "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.
- (68) "Video Lottery Terminal" has the same meaning as in section 3770.21 of the Ohio Revised Code.
- (69) "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.

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181.03 IMPOSITION OF TAX.

(a) Annual Tax. An annual tax for the purposes specified in Section 181.01 shall be and is hereby levied on and after January 1, 1981 at the area of one and one-half percent (1.5%) per annum upon the following:

(1) “Municipal Taxable Income” for a resident of the Municipality is calculated as follows:

A. “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 181.02 of this Chapter, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.

B. 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.

C. 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

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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.

D. All applicable factors are provided in Ohio Revised Code Section 718.012.

- (2) “Municipal Taxable Income” for a nonresident of the Municipality is calculated as follows:

- A. “Income” reduced by “Exempt Income” to the extent such exempt income is otherwise included in income, as applicable, apportioned or situated to the Municipality as provided in Section 181.03A2 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 181.02 of this Chapter, further reduced by any “Pre-2017 Net Operating Loss Carryforward” equals “Municipal Taxable Income”.

- (3) “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.

- (a) “Net Profit” for a person other than an individual is defined in Section 181.02(23).

- (b) “Adjusted Federal Taxable Income” is defined in Section 181.02(1) of this Chapter.

2. “Exempt Income” is defined in Section 181.02(11) of this Chapter.

3. “Apportionment” means the apportionment as determined by Section 181.03A2 of this Chapter.

4. “Pre-2017 Net Operating Loss Carryforward” is defined in Section 181.02 (32) of this Chapter.

(b) Business Both in and Outside the City Boundaries. 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.

- (1) Net profit from a business or profession conducted both within and without the boundaries of the Municipality shall be considered as having a

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taxable situs in the Municipality for purposes of municipal income taxation in the same proportion as the average ratio of the following:

- A. 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;

- B. 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 181.062 of this Chapter;

- C. 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.

- (2) A. 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:

- 1. Separate accounting;
- 2. The exclusion of one or more of the factors;
- 3. 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;
- 4. A modification of one or more of the factors.

- B. 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 181.12B of this Chapter.

- C. 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

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- period prescribed by division (A) of Section 181.12B of this Chapter.
- D. 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.
- (3) 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:
- A. A location that is owned, controlled, or used by, rented to, or under the possession of one of the following:
1. The employer;
 2. A vendor, customer, client, or patient of the employer, or a related member of such a vendor, customer, client, or patient;
 3. 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.
- B. 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;
- C. 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.
- (4) 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:
- A. 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:
1. The property is shipped to or delivered within the municipal corporation from a stock of goods located within the municipal corporation.
 2. 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

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solicitation or promotion.

3. 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.
 - B. 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.
 - C. 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.
 - D. 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.
 - E. 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.
- (5) 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.
- (6) A. 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.
 - B. 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 181.131 of this Chapter.
- (7) 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

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income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 181.02 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.

- (8) 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.

(c) Consolidated Returns.

- (1) As used in this section:

- A. "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.
- B. "Consolidated federal income tax return" means a consolidated return filed for federal income tax purposes pursuant to section 1501 of the Internal Revenue Code.
- C. "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.
- D. "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Revised Code.
- E. "Local exchange telephone service" has the same meaning as in section 5727.01 of the Revised Code.

- (2) A. 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.

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1. 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.
 2. 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
 - 3.. A taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.
- B. 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.
- C. 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.
- (3) 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.
- (4) 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.
- (5) A. 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 181.02(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.
- B. No corporation filing a consolidated municipal income tax return

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shall make any adjustment otherwise required under division (1) of 181.02 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.

- C. 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:
1. 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 181.03A2 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.
 2. 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 181.03A2 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.
- D. 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:
1. 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 181.03A2 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated

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- group's net profit situated to a municipal corporation;
 2. 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.
 - (6) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 181.03A2 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.
 - (7) 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.
 - (8) 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.
 - (d) Tax Credits.
 - (1) 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.
 - (2) 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.
 - (e) Exemptions. The tax provided herein shall not be levied upon:

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- (1) 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;
- (2) A. Except as provided in division (11)(B)(ii) of this section, intangible income;
B. 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.
- (3) 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.
- (4) 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.
- (5) 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.
- (6) Dues, contributions, and similar payments received by charitable, religious, educational, or literary organizations or labor unions, lodges, and similar organizations;
- (7) Alimony and child support received;
- (8) 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;
- (9) 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.
- (10) 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

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- decedent's estate during the period of administration except such income from the operation of a trade or business;
- (11) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;
 - (12) Employee compensation that is not qualifying wages as defined in division (34) of this section;
 - (13) 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.
 - (14) 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.
 - (15) A portion of the municipal taxable income earned by individuals or a class of individuals under eighteen years of age, specifically exempting under sixteen years of age.
 - (16)
 - A. 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 181.062 of this Chapter to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.
 - B. 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.
 - C. 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 181.062 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:
 - 1. For qualifying wages described in division (B)(1) of Section 181.062 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 181.062 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;
 - 2. The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the

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- employee not performing services in that municipal corporation.
- (17) A. 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.
- B. The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:
1. The individual's base of operation is located in the Municipality.
 2. 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 181.062 of this Chapter.
 3. 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.
 4. 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.
- (18) 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.
- (19) 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.
- (20) 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

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as a result of services rendered as such member or employee and is paid from appropriated funds of this state.

- (21) 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.
- (22) Generally the above noted items in this section are the only forms of income not subject to tax. Any other income, benefits or other forms of compensation shall be taxable.

181.04 EFFECTIVE PERIOD.

The tax imposed by this chapter shall be levied, collected, and paid with respect to all income and net profits subject to the tax earned on or after January 1, 1971.

181.05 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 181.061(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.
- (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.

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(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 or, in the case of a return or request required by a qualified municipal corporation, Ohio IT 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

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- 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 181.052 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 181.052 of this Chapter, the provision in Section 181.052 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.

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(i) This division shall not apply to payments required to be made under division (B)(1)(b) or (c) of Section 181.061 of this Chapter.

- (1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.
- (2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 181.061 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.

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(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 181.062 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

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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.

(o) Individuals Serving in Combat Zone.

- (1) 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.
- (2)
 - A. 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.
 - B. 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.
 - C. 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.
- (3)
 - A. Nothing in this division denies to any person described in this division the application of divisions (A) and (B) of this section.
 - B.
 1. A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an

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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.

2. 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.
- (4) 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.
- (p) Use of Ohio Business Gateway; Types of Filings Authorized.
- (1) 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.
 - (2) 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.
 - (3) Nothing in this section affects the due dates for filing employer withholding tax returns or deposit of any required tax.
 - (4) 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.

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- (5) 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.

(q) Extensions of Time to File.

- (1) 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.
- (2) 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.
- (3) 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.
- (4) 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.
- (5) 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.

(r) Amended Returns.

- (1)
 - A. 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.
 - B. Within sixty days after the final determination of any federal or state tax liability affecting the taxpayer's municipal tax liability, that taxpayer shall make and file an amended municipal return showing income subject to the municipal income tax based upon such final determination of federal or state tax liability, and pay any additional municipal income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is ten dollars or less.
 - C. If a taxpayer intends to file an amended consolidated municipal

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- 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.
- (2) A. 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 181.12B of this Chapter has not expired for a previously filed return.
- B. 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.
- (3) A. In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of section 181.12B of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 181.056 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.
- B. 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.

181.06 COLLECTION AT SOURCE.

- (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 181.062 of this Chapter or

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- 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.
- (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) or (B)(1)(c) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.
 - B. Taxes required to be deducted and withheld shall be remitted monthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld by the employer, agent, or other payer on behalf of the municipal corporation in the preceding calendar year exceeded two thousand three hundred ninety-nine dollars, or if the total amount of taxes deducted and withheld or required to be deducted and withheld on behalf of the Municipality in any month of the preceding calendar quarter exceeded two hundred dollars. Payment under division (B)(1)(b) of this section shall be made so that the payment is received by the Tax Administrator not later than fifteen days after the last day of each month.
 - C. An employer, agent of an employer or other payer is required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality

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shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(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 181.051 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.

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(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.

(l) Occasional Entrant.

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

- A. "Employer" includes a person that is a related member to or of an employer.
- B. "Professional athlete" means an athlete who performs services in a professional athletic event for wages or other remuneration.
- C. "Professional entertainer" means a person who performs services in the professional performing arts for wages or other remuneration on a per-event basis.
- D. "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.
- F. "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.
- G. "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than twenty days during the calendar year. "Worksite location" does not include the home of an employee.
- H. "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,

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“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.

- (2) A. 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:
1. The employee's principal place of work is located in the Municipality.
 2. The employee performed services at one or more presumed worksite locations in the Municipality. For the purposes of this division, “presumed worksite location” means a construction site or other temporary worksite in this state at which the employer provides services that can reasonably be expected by the employer to last more than twenty days in a calendar year. Services can “reasonably be expected by the employer to last more than twenty days” if either of the following applies at the time the services commence:
 - (a.) The nature of the services are such that it will require more than twenty days of actual services to complete the services;
 - (b) The agreement between the employer and its customer to perform services at a location requires

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- the employer to perform actual services at the location for more than twenty days.
3. 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 181.061 of this Chapter.
 4. 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.
- B. 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:
1. Traveling to the location at which the employee will first perform services for the employer for the day;
 2. Traveling from a location at which the employee was performing services for the employer to any other location;
 3. 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;
 4. 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;
 5. 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.
- (3) 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.
- (4) A. Except as provided in division (D)(2) of this section, if, during a

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- 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.
- B. 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.
- C. 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.
- (5) 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 181.02 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.
- (6) 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 181.061 of this Chapter.
- (7) 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

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calendar year on which the individual performed services at the refinery.

- (m) Casino and Video Lottery Terminal.
- (1) 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.
 - (2) 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.
 - (3) 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.
 - A. 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.
 - B. 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.
 - C. 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.

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- D. 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.
 - E. 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:
 - 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.
 - F. 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.
- (4) 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.
- (5) 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.
- A. 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.
 - B. 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.

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- With the return, the video lottery sales agent shall remit electronically to the Tax Administrator all amounts deducted and withheld during the preceding month.
- C. 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.
 - D. 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.
 - E. 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.
 - F. 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.
- (6) If a video lottery sales agent ceases to operate video lottery terminals, the amounts deducted and withheld along with any penalties and interest thereon are immediately due and payable. The successor of the video lottery sales agent that purchases the video lottery terminals from the agent shall withhold an amount from the purchase money that is sufficient to cover the amounts deducted and withheld and any penalties and interest thereon until the predecessor video lottery sales agent operator produces either of the following:
- 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

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- 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.
- (7) 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.
 - (8) 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:
 - A. For the late remittance of, or failure to remit, tax deducted and withheld under this section, a penalty equal to fifty per cent of the tax deducted and withheld;
 - B. 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.
 - (9) 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 181.07 of this Chapter. This division applies only to the person for whom the amount is deducted and withheld.
 - (10) The Tax Administrator shall prescribe the forms of the receipts and returns required under this section.
- (n) Collection After Termination of Chapter.
- (1) 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 181.12B.
 - (2) 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 181.051 as though the same were continuing.

181.07 DECLARATIONS.

- (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

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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 181.051 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

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- 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 181.051 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 181.10 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;

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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 181.051 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.

181.08 DUTIES OF THE ADMINISTRATOR.

(a) There is hereby created a subdepartment within the Finance Department to be entitled the Fairfield Income Tax Division for the administration of the provisions of this chapter. Such Division shall consist of a Tax Commissioner or Administrator, Deputy Tax Commissioner or Administrator and such clerical and secretarial personnel as may be determined to be necessary for the administration of this chapter, all of whom shall be appointed as provided for in the City Charter.

(b) 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:

- (1) 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

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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;

- (2) Appoint agents and prescribe their powers and duties;
- (3) 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;
- (4) 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;
- (5) Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;
- (6) Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with section 181.03A2 of this Chapter;
- (7) 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;
- (8) Destroy any or all returns or other tax documents in the manner authorized by law;
- (9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in section 181.061 of this Chapter.

(c) Compromise of Claim and Payment Over Time.

- (1) 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.
- (2) The Tax Administrator may do either of the following if such action is in the best interests of the Municipality:
 - A. Compromise a claim;

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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 181.10 of this Chapter.

- C. 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 181.99 of this Chapter for a violation of 181.09B of this Chapter, and any other penalties that may be imposed by the Tax Administrator by law.

181.09 INVESTIGATIVE POWERS OF THE ADMINISTRATOR; DIVULGING CONFIDENTIAL INFORMATION.

(a) Right to Examine.

- (1) 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.
- (2) 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.
- (3) 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

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practitioner at any such hearing or examination. This division does not authorize the practice of law by a person who is not an attorney.

- (4) 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.

(b) Audit.

- (1) At or before the commencement of an audit, as defined in Section 181.02(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.
- (2) 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.
- (3) 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.

- (4) A taxpayer may record, electronically or otherwise, the audit examination.
- (5) 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.
- (6) 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.

c. Confidentiality.

- (1) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by ORC 718 or by the charter or

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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.

- (2) 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.

(d) 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.

(e) Opinion of the Tax Administrator.

- (1) 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.
- (2) 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:
 - A. The taxpayer's request fully and accurately describes the specific stances 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.
 - B. The request relates to a tax imposed by the Municipality in accordance with this Chapter.
 - C. The Tax Administrator's response is signed by the Tax Administrator and designated as an “opinion of the Tax Administrator.”
- (3) 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

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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:

- A. 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;
 - B. 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;
 - C. 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;
 - D. 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;
 - E. The effective date of any change in the taxpayer's material facts or circumstances;
 - F. The effective date of the expiration of the opinion, if specified in the opinion.
- (4) A. 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.
- B. 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 181.09B of this Chapter-
- (5) If a Tax Administrator provides written advice under this section, the opinion shall include a statement that:
- A. The tax consequences stated in the opinion may be subject to change for any of the reasons stated in division (C) of this section;
 - B. It is the duty of the taxpayer to be aware of such changes.
- (6) A Tax Administrator may refuse to offer an opinion on any request received under this section.
- (7) This section binds a Tax Administrator only with respect to opinions of the Tax Administrator issued on or after January 1, 2016.
- (8) 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.
- (9) 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

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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.

- (10) An opinion of the Tax Administrator issued under this section or a refusal to offer an opinion under subsection (6) may not be appealed.

(f) Assessment; Appeal Based on Presumption of Delivery.

- (1) A. 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.
- B. 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.
- C. Once service of the assessment has been made by the Tax Administrator or other municipal official, or the designee of either, the person to whom the assessment is directed may protest the ruling of that assessment by filing an appeal with the Local Board of Tax Review within sixty days after the receipt of service. The delivery of an assessment of the Tax Administrator as prescribed in Section 718.18 of the Revised Code is prima facie evidence that delivery is complete and that the assessment is served.
- (2) A. 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.
- B. If a person elects to appeal an assessment on the basis described in division (B)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within sixty days after the initial contact by the Tax Administrator or other municipal official, or the designee of either, with the person. Nothing in this division prevents the Tax Administrator or other official from entering into a compromise with the person if the person does not actually file such an appeal with the Local

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Board of Tax Review.

181.10 INTEREST AND PENALTIES.

- (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

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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.

- A. 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.
- B. 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.
- C. With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
- D. 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.

181.11 COLLECTION OF UNPAID TAXES; REFUND OF OVERPAYMENTS.

- (a) Refunds.

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- (1) 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:
 - A. Overpayments of more than ten dollars;
 - B. Amounts paid erroneously if the refund requested exceeds ten dollars.
- (2)
 - A. 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.
 - B. 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.
 - C. 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 181.12A of this Chapter.
- (3) 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:
 - A. 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.
 - B. 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.
 - C. 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.
- (4) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment

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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 181.10 of this Chapter.

- (5) As used in this section, “withholding tax” has the same meaning as in section 181.10 of this Chapter.

(b) 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.

181.12 BOARD OF 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 domiciled in the Municipality. Two members shall be appointed by the legislative authority of the Municipality, and may not be employees, elected officials, or contractors with the Municipality at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the top administrative official of the Municipality. 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

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original appointment within sixty days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the board shall impair the power and authority of the remaining members to exercise all the powers of the board.

- (7) If a member is temporarily unable to serve on the board due to a conflict of interest, illness, absence, or similar reason, the legislative authority or top administrative official that appointed the member shall appoint another individual to temporarily serve on the board in the member's place. This appointment shall be subject to the same requirements and limitations as are applicable to the appointment of the member temporarily unable to serve.
- (8) No member of the Local Board of Tax Review shall receive compensation, fee, or reimbursement of expenses for service on the board.
- (9) A member of a Local Board of Tax Review shall not be appointed to or serve on another such board simultaneously.

(b) Whenever a Tax Administrator issues an assessment, the Tax Administrator shall notify the taxpayer in writing at the same time of the taxpayer's right to appeal the assessment, the manner in which the taxpayer may appeal the assessment, and the address to which the appeal should be directed, and to whom the appeal should be directed.

(c) Any person who has been issued an assessment may appeal the assessment to the board by filing a request with the board. The request shall be in writing, shall specify the reason or reasons why the assessment should be deemed incorrect or unlawful, and shall be filed within sixty days after the taxpayer receives the assessment.

(d) The Local Board of Tax Review shall schedule a hearing to be held within sixty days after receiving an appeal of an assessment under division (C) of this section, unless the taxpayer requests additional time to prepare or waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the board and/or may be represented by an attorney at law, certified public accountant, or other representative. The board may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within one hundred twenty days after the first day of the hearing unless the parties agree otherwise.

(e) The board may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The board shall issue a final determination on the appeal within ninety days after the board's final hearing on the appeal, and send a copy of its final determination by ordinary mail to all of the parties to the appeal within fifteen days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the board's final determination as provided in section 5717.011 of the Ohio Revised Code.

(f) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing,

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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.

(g) Actions to Recover; Statue of Limitations.

- (1) A. 1. Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
 - (a) Three years after the tax was due or the return was filed, whichever is later; or
 - (b) One year after the conclusion of the qualifying deferral period, if any.
 2. 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.
 - B. As used in this section, “qualifying deferral period” means a period of time beginning and ending as follows:
 1. 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 181.12A 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.
 2. 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.
- (2) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years

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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.

- (3) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 181.056 of this Chapter.
- (4) A.
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.
B.
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 181.12A 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 181.056 of this Chapter, with interest on that amount as provided by division (D) of this section.
- (5) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:
 - A. The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
 - B. The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(h) Adoption of Rules.

- (1) Pursuant to Section 718.30 of the Revised Code, the Municipality grants authority to the Tax Administrator to adopt rules to administer the income tax imposed by the Municipality.
- (2) All rules adopted under this section shall be published and posted on the internet.

181.13 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

(a) Where a resident of the City is subject to a Municipal income tax in another municipality, or in a joint economic development district or zone, he shall not pay a total Municipal income tax on the same income greater than the tax imposed at the higher rate.

(b) Every individual taxpayer who resides in the City who receives net profits, salaries, wages, commissions, personal service compensation, any other type of compensation, or other income from a resident or nonresident business entity or association of which he is partner or owner, for work done, or services performed or rendered outside the City, if he or such business entity has paid another Municipal or Joint Economic Development District or Zone income tax on or with respect to the same income taxable under this chapter to another

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municipality or Joint Economic Development District or Zone, shall be allowed a credit against the tax imposed by this chapter. In no event, however, shall any municipal income tax or any Joint Economic Development District or Zone income tax to the extent paid to another municipality or to a Joint Economic Development District or Zone and allowed as credit hereunder be deductible in computing the net profit of such taxpayer or such business entity. The amount of credit allowed shall not exceed the rate of tax imposed by this chapter. Determination of credit shall be calculated as follows:

- (1) Tax credit for taxes paid to another City is limited to the income determined to be taxable by the Administrator or designee. The credit allowed is limited to the income taxed by another City. The credit allowed for taxes paid to another Municipality whose rate is higher than Fairfield's rate is calculated by dividing the tax withheld by that City's tax rate and multiplying that income by the tax rate imposed by this chapter. A taxpayer who pays a tax to a City whose rate is less than the tax rate imposed by this chapter shall only receive credit for the tax paid. No excess tax withheld for a Municipality whose rate is higher than Fairfield's rate shall apply to income taxed by another Municipality whose rate is lower than Fairfield's rate.
- (2) Tax credit for taxes paid by a resident on his net profits shall be limited to the income determined to be taxable by the Administrator or designee. If the taxpayer pays directly to another Municipality for his unincorporated entity but has additional unincorporated entities sustaining losses, the tax credit allowed will be reduced to the net taxable income recognized by the City. No taxes paid to another Municipality will be credited or refunded or applied to other income of the taxpayer in such cases.

(c) A claim for refund or credit under this section shall be made in such manner as the Administrator may, by regulation, provide.

(d) Except as provided in subsection (e) hereof, if tax or withholding is paid to a municipal corporation on income or wages, and if a second municipal corporation imposes a tax on that income or wages after the time period allowed for a refund of the tax or withholding paid to the first municipal corporation, the second municipal corporation shall allow a nonrefundable credit, against the tax or withholding the second municipality claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipal corporation with respect to such income or wages.

(e) If the tax rate in the second municipal corporation is less than the tax rate in the first municipal corporation, then the credit described in subsection (d) hereof shall be calculated using the tax rate in effect in the second municipal corporation.

(f) Specific provisions of this chapter may be modified as they apply to Joint Economic Development Districts or Zones if the modifications are passed by Council in an ordinance which either specifically approves a Joint Economic Development District or Zone contract or specifically amends this chapter.

(g) The Finance Director shall, subject to the approval of Council, have the authority to enter into an agreement with another political subdivision for the division of the tax imposed

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on the qualifying wages, commissions, other compensation and other income received by residents or nonresidents of the City.
(Ord. 179-03. Passed 11-24-03.)

(h) Refundable Credit for Qualifying Loss.

(1) As used in this section:

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

B. 1. 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.

2. 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.

3. 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.

C. “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.

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- (2)
 - A. 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.
 - B. 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.
 - C. 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.
 - D. 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.
- (3)
 - A. 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.
 - B. 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.
- (4) The credit allowed under this section is allowed only to the extent the taxpayer's qualifying loss is attributable to:
 - A. The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or
 - B. The employee's failure or inability to satisfy all of the employer's terms and conditions necessary to receive the nonqualified deferred compensation.

(i) 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 181.131 of this Chapter.

(j) Credit for Tax beyond Statute for Obtaining Refund.

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- (1) 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 181.056 of this Chapter.
- (2) 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 181.056, 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.
- (3) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 181.056 of this Chapter.
- (4) 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 181.131 of this Chapter regarding any limitation on credit shall prevail.

181.14 REPORTS REQUIRED ON TENANTS AND LESSEES.

(a) The owner, manager, or any person in control who rents or leases to other persons, real estate for any purpose in the City must make a report within thirty (30) days after a new tenant occupies rental property of any kind within the City to the Administrator of the identity of their tenants, lessees, or other occupants of the real estate, and the address and telephone number, if available, of the same. The property owner, manager, or any person in control of a vacated rental property shall file within thirty (30) days after the tenant vacates, a report showing the date of vacation from the rental property and a forwarding address, if available.

(b) Any owner, manager, or person in control of the real estate who fails to make the report of lessees, tenants, or occupants of premises under their control as required in subsection (a) hereof, shall be fined up to a maximum of one hundred dollars (\$100.00).
(Ord. 193-00. Passed 11-27-00.)

181.15 SEVERABILITY.

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.

181.99 PENALTY

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(a) Except as provided in division (B) of this section, whoever violates Section 181.09B of this Chapter, division (A) of Section 181.09A of this Chapter, or Section 181.061 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 181.09A 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 third degree on a first offense and shall be fined not more than five hundred dollars (\$500.00), or imprisoned not more than sixty (60) days, 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 181.061; 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

EXHIBIT A

- 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 181.02, 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.



Quotation

NUMBER: B04300769R2

DATE: October 9, 2015

TO: City of Fairfield

REF.: Screenings press replacement

Parkson Corporation is pleased to provide this quotation for the following:

ITEM 1 One (1) Hypress® ram-style dewatering press model HP1020MC

1.A Basis of Design:

Application:	Dewatering screenings from existing Aqua Guard screen
Peak feed solids capacity:	30 ft ³ /hr

1.B Equipment Description:

1. Per attached drawing
2. Press body of 0.165" thick type 304 stainless steel construction with a flanged solids inlet chamber.
3. Drainage slots machined into the bottom of the solids inlet chamber.
4. Drain pan.
5. Press ram of type 304 stainless steel construction with a 10" nominal diameter.
6. Hydraulic cylinder attached with a pinned connection to the press body and a pinned connection to the press ram.
7. Hydraulic power pack unit consisting of a hydraulic gear pump, a 3 HP (230/460/3/60) motor, oil reservoir, pressure limiting valve, reciprocating valve, pressure gauge, and oil filtration. Power pack housing will be painted carbon steel.
8. Home position limit switch, rated NEMA 4X.
9. Pressure switch, rated NEMA 4X.
10. E-stop pushbutton in a NEMA 4X polycarbonate enclosure.

NOTE: Existing controls, inlet chute, and discharge piping including wedgewire spool piece will be reused, and as such, are not offered as part of this proposal.

ITEM 2 SERVICES

2.A Drawings and Installation, Operation and Maintenance (IO&M) Manuals:

- | | |
|------------------------|-------------------|
| 1. Approval drawings: | 2 if required |
| 2. Certified drawings: | 2 prints included |
| 3. IO&M manuals: | 2 included |

2.B Start-Up Assistance:

Parkson can furnish a factory representative to the jobsite to assist in installation inspection, start-up supervision, and operator training, at a rate of \$1,000 per day plus all travel and living expenses. Dates of service to be scheduled upon Purchaser's written request.

2.C Mechanical Warranty:

Per Section XVI on the attached Standard Conditions of Sale.



PURCHASE PRICE:

All of the above for \$33,400.
F.O.B. shipping point, freight allowed to jobsite, taxes excluded.

OPTION:

Price adder to include a new inlet chute \$4,950.

OPTION:

Price adder to include a new NEMA 4X control panel for the Hypress unit ~~\$9,500.~~

VALIDITY:

Purchase Price is valid through November 30, 2015, for shipment of equipment within the timetable stated below.

PAYMENT TERMS:

Net 30 days.

TOTAL: \$38,350

TIMETABLE GUIDELINE:

Within ten (10) business days of receiving a written Purchase Order in Parkson's office, if necessary, Parkson will submit a written Request for Additional Information requesting items including, but not limited to, full-scale drawings, specification sections, amendments and other documents necessary for Parkson to begin work on this Project. No work can be done on this Project until all Additional Information is received by Parkson, thus beginning the Submittal Phase. If you do not receive such a Request for Additional Information within the stated ten (10) business days, then the Submittal Phase will begin on the eleventh (11th) business day following receipt of the written Purchase Order in Parkson's office. The Shipment Phase is thereafter contingent upon your final approval of all submitted Approval Drawings. Once said final approval is received in Parkson's offices, the Shipment Phase will begin.

Submittal Phase: Six weeks if required.

Shipment Phase: Twelve weeks after receipt of approved shop drawings or notice to proceed.

If the Submittal Phase is waived, the Shipment Phase will begin on receipt of all requested Additional Information if necessary, or if not necessary, on the eleventh (11th) business day following receipt of a written Purchase Order in Parkson's offices.

Dates are subject to confirmation upon receipt of written Purchase Order.

TERMS AND CONDITIONS:

Parkson's Standard Conditions of Sale, as stated on the attached, shall apply.

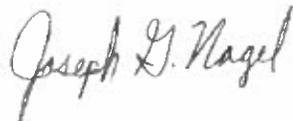
BUYER/OWNER RESPONSIBILITY:

- Anchor bolts.
- Local disconnects switches or junction boxes.
- Inlet chute.
- Wedgewire spool piece.
- Discharge piping.
- Controls.
- Drain pan discharge piping.
- Heat tracing.
- Spray wash water connection and piping.
- Gate valves, solenoid valves, check valves, butterfly valves, ball valves, Y-strainers.
- Screenings dumpster.
- Lubricants.
- Shop or field painting.
- Unloading, uncrating, installation and installation supervision. Installation will, at minimum, require a forklift and possibly a crane/hoist.
- Readiness of the equipment before requesting start-up service. Non-readiness may incur additional charges.
- Compatibility of equipment materials of construction with process environment.
- Electrical connection and interconnecting wiring (including any of the following: E-Stop button, level sensor, home position switch, pressure switch, motor, main control panel); wiring and conduit from each unit-mounted electrical device to a terminal box or control panel.
- Interconnecting piping.
- Piping connections, platforms, ladders, gratings and railings unless stated otherwise.
- Any other auxiliary equipment or service not detailed above.

Please return one signed copy of this Quotation, or your Purchase Order, to Parkson Corporation at the address below. Refer to this Quotation, date, and related correspondence.

Issued By:

PARKSON CORPORATION
562 Bunker Court
Vernon Hills, IL 60061



Name: Joseph G. Nagel
Title: Municipal Sales
Date: October 9, 2015

Accepted By: (Herein called the Buyer)

Name
Title:
Date:

Enclosures: Standard Conditions of Sale, Quotation Addendum, Hypress Drawing



Quotation Addendum

As a result of dramatic cost increases in the cost of both stainless and carbon steel, please be advised that the following provisions shall be strictly enforced pursuant to the Equipment advertised in this Quotation:

1. The Quotation's Purchase Price shall be firm for thirty (30) calendar days unless stated otherwise in the Quotation. Any Purchase Order issued beyond this timeframe may result in a Purchase Price review by Parkson Corporation whereby the Purchase Price may be increased to cover the increases in material costs. This Purchase Price review shall be at Parkson Corporation's sole discretion.
2. For those customers that have requested a firm Purchase Price commitment in excess of thirty (30) calendar days, Parkson has utilized an escalation clause tied to an appropriate commodity index to determine the Purchase Price.
3. All Purchase Orders that have a delivery schedule stretching beyond six (6) months from the time a Purchase Order is placed will be subject to price escalation tied to a proportionate increase in total material costs as a result of either stainless or carbon steel surcharges in effect at the time Parkson Corporation places its orders for any fabricated steel components for the Equipment. Parkson Corporation will notify you of any changes in prices once all orders for said components have been completed.

JCG
Effective 4/27/04



Standard Conditions of Sale

I. GENERAL: All references to Parkson (or any derivative thereof) shall mean Parkson Corporation and all references to Buyer shall mean the customer named in a purchase order, quotation or proposal (collectively referred to herein as "quotation"). All quotations from Parkson shall be considered solicitations of offers and all purchase orders placed by Buyer shall be considered offers, which can only be accepted in writing by Parkson. Buyer shall either sign Parkson's quotation, or in the alternative, issue a non-conflicting purchase order containing necessary information, such as site name, price schedule, type and quantity of product, requested delivery date and delivery instructions. Parkson hereby objects to and rejects any and all additional or different terms proposed by Buyer, whether contained in Buyer's request for quotation, purchase order, purchasing or shipping release forms. Notwithstanding any terms or conditions that may be included in Buyer's purchase order form or other communications, Parkson's acceptance is conditional upon Buyer's assent to the terms and conditions set forth herein. It is agreed that sales are made only on the terms and conditions herein and any other terms or conditions shall not become a part of the agreement unless expressly agreed to in writing by Parkson. Parkson's failure to object to any terms or conditions contained in Buyer's purchase order or other communication shall not be deemed to be acceptance of such terms or conditions. These terms and conditions shall be deemed incorporated (as though set forth in full) into any agreement entered into between Parkson and Buyer unless otherwise noted in writing. Parkson reserves the right, without any increase in price, to modify the design and specifications of Parkson products, provided that the modification does not adversely affect the original performance specifications as specified by Parkson or as requested by Buyer. Shipments, deliveries and performance of work shall at all times be subject to the approval of Parkson's Credit Department. Parkson may at any time decline to make any shipment or delivery or perform any work except upon receipt of payment or security or upon terms and conditions satisfactory to Parkson.

II. PRICES, TERMS OF PAYMENT & TAXES: (a) **PRICES:** Unless expressly stated to be firm for a definite period, Parkson's offers are subject to change without notice, and in all cases are subject to withdrawal at any time before acknowledgment by Buyer. Quoted prices are firm for only thirty (30) days. Orders placed after thirty (30) days are subject to price increases in Parkson's sole discretion. Prices on acknowledged orders are firm for the agreed upon delivery time. Customer requests to extend originally agreed upon delivery date(s) will be subject to price escalation. If a price is stated in the quotation, it is based upon shipment of the quantities and quality requested by Buyer and on the basis of Parkson's internal delivery schedule at the time of preparation of said quotation. (b) **TERMS OF PAYMENT:** Payments against invoices shall be due and payable thirty (30) days from the date of delivery to a carrier, or upon receipt of an invoice from Parkson, whichever first occurs. If in Parkson's opinion, Buyer's financial condition does not justify continuation of production or shipment on the terms of payment specified, Parkson may, upon written notice to Buyer, cancel or suspend any outstanding order or part thereof, unless Buyer shall promptly pay for all goods delivered or shall make advance payments to Parkson as it, at its option, shall determine. If Buyer delays shipment for any reason, date of readiness for shipment shall be deemed to be the date of shipment for payment purposes. If Buyer delays manufacture for any reason, a payment shall be made based on purchase price and percentage of completion, with the balance payable in accordance with the terms as stated. If payments are not made in conformance with the terms stated herein, the contract price shall, without prejudice to Parkson's right to immediate payment, be increased by 1½% per month on the unpaid balance, not to exceed the maximum amount permitted by law. If at any time in Parkson's judgment Buyer may be or may become unable or unwilling to meet the terms specified herein, Parkson may require satisfactory assurance or full or partial payment as a condition to commencing, or continuing manufacture, or in advance of shipment. (c) **TAXES:** Except for the amount, if any, of tax stated in a Parkson quotation, the prices set forth therein are exclusive of any amount for federal, state, local, excise, sales, use, property, in-country, import, VAT or similar taxes or duties. Such prices also exclude permit, license, customs and similar fees levied upon shipment of Parkson products.

III. SHIPMENT/STORAGE: (a) **SHIPMENT:** The anticipated shipment date(s) set forth in the quotation is/are approximate and subject to change. Notwithstanding other limitations set forth by Parkson, Parkson shall not be liable for any delays in shipment which are caused by events beyond the control of Parkson including, but not limited to, delays caused by inaccurate or incomplete data, changes or revisions in the work to be performed, tardy approval of drawings by Buyer, acts of Buyer or Buyer's agent, Force Majeure, accidents, strikes, inability to obtain labor or materials, or delay in transportation. Parkson shall have the right to extend the anticipated shipment date for up to ten (10) business days, for any reason, provided Parkson shall give Buyer written notice of such delay prior to the scheduled shipping date. Buyer's order will be crated for domestic truck shipment and Parkson assumes no responsibility for loss of, or damage to, the equipment following delivery to a carrier, who shall be deemed to be acting as agent for Buyer, and the equipment shall thereafter be at the Buyer's sole risk. It is Parkson's policy to ship its equipment "Bill Collect," and the carrier will mail its invoice(s) directly to Buyer's billing address, unless otherwise agreed to in writing. (b) **STORAGE:** Once Buyer has been notified that its order is ready for shipment, if Buyer requests that the order (in whole or in part) not be shipped until a later date, the equipment will be segregated from other inventory and Buyer shall execute Parkson's Transfer of Title form evidencing transfer of title and transfer of risk of loss from Parkson to Buyer pursuant to Section IV below. In the event that Buyer shall refuse to execute Parkson's Transfer of Title form and/or if the fabricator is unable to withstand storage of the equipment, Parkson shall have the right, at its sole discretion, to transfer the equipment to an intermediate storage facility, all at Buyer's cost, whereby transfer of title and risk of loss will be deemed to pass, pursuant to Section IV below, when the products are delivered to the carrier at the factory. All costs associated with shipping the equipment to said storage facility or from said storage facility to the job site (or any other site requested by Buyer) shall be the responsibility of Buyer. Buyer shall reimburse Parkson upon demand for any costs incurred by Parkson in connection with said storage, including without limitation, steps taken to protect the equipment from the elements, transport, storage facility fees, insurance, etc. Any delay in shipment requested or caused by Buyer or its agents will not affect the Terms of Payment above.

IV. TITLE & RISK OF LOSS: Parkson's prices are F.O.B. Parkson's Factory and are exclusive of taxes, shipping, handling and insurance. Title to all equipment and risk of loss, deterioration or damage shall pass to Buyer upon delivery to a carrier, except that a security interest in the equipment or any replacement shall remain in Parkson's name, regardless of mode of attachment to realty or other property, until the full purchase price has been received by Parkson. Buyer agrees to do all acts necessary to perfect and maintain said security interest, and to protect Parkson's interest by adequately insuring the products against loss or damage from any external cause, including during any storage or transport, with Parkson named as insured or co-insured.



Any claim by Buyer against Parkson for shortage or damage occurring prior to delivery must be made in writing within ten (10) calendar days after receipt of shipment and accompanied by an original transportation bill signed by the carrier noting that carrier received goods from Parkson in the condition claimed. Parkson shall have the right to ship all goods at one time or in portions, within the time for shipping provided in such order, unless specifically requested in writing by the Buyer that these shipments be made in total. Any shipments returned to Parkson as a result of Buyer's unexcused delay or failure to accept delivery will require Buyer to pay all additional costs incurred by Parkson, including any storage costs as set forth in Section III above.

V. ERECTION: Unless otherwise agreed in writing, products are assembled, installed and/or erected by and at the full expense of Buyer.

VI. CANCELLATION & BREACH: Buyer agrees that Parkson products are specially manufactured goods that are not suitable for sale to others in the ordinary course of business. Therefore, purchase orders placed with Parkson cannot be canceled without recourse, nor shipments of goods made up, or in process, be deferred beyond the original shipment dates specified, except with Parkson's written consent and upon terms which shall indemnify Parkson against all loss. In the event of cancellation or the substantial breach of the agreement between Buyer and Parkson, including without limitation, failing to make payment when due, Buyer agrees that Parkson will suffer serious and substantial damage which will be difficult, if not impossible, to measure, both at the time of entering the agreement and as of the time of such cancellation or breach. Therefore, the parties agree that upon such cancellation or breach, the Buyer shall pay to Parkson the sums set forth below which Parkson and Buyer do hereby agree shall constitute agreed and liquidated damages in such event:

- a. If cancellation or breach shall occur after the acceptance of the purchase order but prior to mailing of general arrangement drawings by Parkson to Buyer, liquidated damages shall be 10% of the selling price.
- b. If cancellation or breach shall occur within thirty (30) days from the mailing of general arrangement drawings by Parkson to Buyer, the liquidated damages shall be 30% of the selling price.
- c. If the cancellation or breach occurs after thirty (30) days from the mailing of general arrangement drawings by Parkson to Buyer, but prior to notification that the order is ready for shipment, the liquidated damages shall be the total of 30% of the selling price plus the expenses incurred, cost of material, and reasonable value of the work expended to fill the respective order by Parkson's engineers and other employees, agents and representatives after the mailing of general arrangement drawings by Parkson to Buyer. All sums will be determined at the sole reasonable discretion of Parkson provided, however, that the total liquidated damages under this provision shall not exceed the total selling price.
- d. If cancellation or breach shall occur after Parkson has notified Buyer that the order is ready for shipment, then the liquidated damages shall be the total selling price.

VII. DRAWINGS & SPECIFICATIONS: In the event that drawings are sent to Buyer for approval after an order is placed, the drawings must be returned marked "Approved" or "Approved As Noted" within twenty (20) calendar days after receipt unless otherwise noted. In the event that Buyer's written comments are not given within the twenty (20) day period, Parkson shall deem the items approved.

VIII. CORRECTIVE WORK & "BACK CHARGES": In no event shall any work be done, or services or material be purchased or expense otherwise incurred by the Buyer for the account of Parkson until after full and complete particulars (including an estimate of material cost) have been submitted in writing and approved in writing by Parkson. Parkson must be given the opportunity to discuss and research alternative methods to lower the costs involved in such corrective work. Unless agreed-upon in writing by Parkson, Parkson will not be liable for labor costs, overhead, administrative costs, interest or any other consequential or indirect costs Buyer incurs. Returned items will not be accepted unless Parkson has previously agreed to such return in writing and supplied written return-shipment instructions to Buyer.

IX. SELECTION OF MATERIALS: Because all Parkson products are specially manufactured products, the material make-up of many of Parkson's products varies from project to project. The determination of the materials' suitability and adaptability (including without limitation, paints and/or coatings) to the specific needs of the Buyer is solely the Buyer's choice and responsibility.

X. CONFIDENTIAL INFORMATION & IMPROVEMENTS: The design, construction, application and operation of Parkson's products, services and relevant documentation embody proprietary and confidential information; therefore, Buyer will maintain this information in strict confidence, will not disclose it to others, and will only use this information in connection with the use of the products or to facilitate the provision of services sold by Parkson. Buyer will not copy or reproduce any written or printed materials or drawings furnished to Buyer by Parkson. Buyer agrees to immediately return all confidential material to Parkson if requested in writing by Parkson. Buyer will not copy any information provided by Parkson or make any design drawings of Parkson's equipment and will not permit others to copy or make any design drawings of the equipment. Parkson shall have a royalty-free license to make, use and sell, any changes or improvements in the products invented or suggested by Buyer or its employees. Buyer acknowledges that a remedy at law for any breach or attempted breach of this Section will result in a harm to Parkson for which monetary damages alone will not be adequate. Buyer covenants and agrees that neither it nor any of its affiliates will oppose any demand for specific performance and injunctive and other equitable relief in case of any such breach or attempted breach. Notwithstanding anything to the contrary herein, Parkson may seek enforcement of any breach of this Section without the necessity of complying with the provisions regarding resolution of disputes herein.

XI. FIELD SERVICE: Field Service included in the quotation will only be scheduled upon written request and may be subject to credit approval. Should the Buyer have outstanding balances due Parkson, no startup / field service will be scheduled until such payments are received by Parkson. The Buyer assumes all responsibility for the readiness of the system when it requests startup service. Should Parkson's Field Service Engineer arrive at the jobsite and determine that the system cannot be started up within a reasonable time, Parkson shall have the option to bring the Field Service Engineer home and bill the Buyer for time, travel and living expenses. Additional field service is available from Parkson at the prevailing per-diem rate at the time of the



request for service plus all travel and living expenses, portal-to-portal. A purchase order or change order will be required prior to scheduling this additional service.

XII. LIMITATION OF LIABILITY: Unless expressly agreed to in writing by Parkson, all damages not direct and actual in nature, including without limitation, consequential, incidental, indirect, exemplary and punitive damages, shall be expressly prohibited damages. Such prohibited damages include, but are not limited to, lost rent or revenue; rental payments; costs (increased or not) of administration or supervision; costs or delays suffered by others unable to commence work or provide services as previously scheduled for which a party to this contract may be liable; increased costs of borrowing funds devoted to the project (including interest); delays in selling all or part of the project upon completion; damages caused by reason of Force Majeure or acts of God (with the broadest statutory or court of law definition possible); termination of agreements to lease or buy all or part of the project, whether or not suffered before completion of services or work; forfeited bonds, deposits, or other monetary costs or penalties due to delay of the project; interest for any reason assessed to Buyer; increased taxes (federal, state, local, or international) due to delay or recharacterization of the project; lost tax credits or deductions due to delay; impairment of security; attorney and other legal fees for any reason assessed to Buyer, loss of use of the Equipment or any associated Equipment, costs of substitute Equipment, facilities or services, down time costs, claims of customers of Buyer for such other damages; or any other indirect loss arising from the conduct of the parties. Parkson only agrees to responsibility for damages from proven negligent and willful acts of its direct employees only.

XIII. APPLICABLE LAWS & GOVERNING LAW: To the best of Parkson's knowledge, Parkson products comply with most laws, regulations and industrial practices; however, Parkson does not accept responsibility for any state, city or other local law not specifically brought to Parkson's attention. For OSHA compliance, (1) Parkson is only liable for those OSHA standards that are in effect as of the date of the quotation, and to the extent they are applicable to the performance of Parkson. (2) Parkson is only responsible for the physical characteristics of the product(s) and not for the circumstances of the use of the product(s). (3) Parkson's liability through any noncompliance to OSHA shall be limited to the cost of modifying the product(s) or replacing the non-complying product(s) or component(s) after receipt of prompt written notice of noncompliance. The rights and obligations of Buyer and Parkson shall be governed by and interpreted in accordance with the substantive laws of the state of Florida including the uniform commercial code of Florida, excluding conflicts of law and choice of law principles.

XIV. DISPUTE RESOLUTION: Any issue, difference, claim or dispute ("Action") that may arise out of or in connection with the project referenced in the quotation, including these terms and conditions, shall be first resolved by negotiation at the highest executive levels between the Buyer and Parkson. If said negotiation is unsuccessful, any said Action or any transactions contemplated hereby or in the Quotation shall be finally settled under BINDING ARBITRATION in Broward County, Florida. Any such arbitration shall be governed by the Commercial Arbitration Rules of the American Arbitration Association and shall be overseen by one (1) single arbitrator. Buyer and Parkson shall agree upon a single arbitrator or, if Buyer and Parkson cannot agree upon an arbitrator within thirty (30) days, then the Buyer and Parkson agree that the American Arbitration Association shall appoint a single arbitrator. In the event that an Action is brought, the prevailing party shall be entitled to be reimbursed for, and/or have judgment entered with respect to, all of its costs and expenses, including reasonable attorney's fees' and legal expenses. The award of the arbitrator shall be binding and may be entered as a judgment in any court of competent jurisdiction.

XV. PATENTS: Parkson shall indemnify Buyer against any judgment for damages and costs which may be rendered against Buyer in a suit brought on account of the alleged infringement of any United States patent by any product supplied by Parkson, unless (a) the alleged infringement occurs as a result of any alteration or modification to the product or the use of the product in combination with the products or services of any party other than Parkson, or (b) the product was made in accordance with materials, designs or specifications furnished or designated by Buyer, in which case Buyer shall indemnify Parkson against any judgment for damages and costs which may be rendered against Parkson in any suit brought on account of the alleged infringement of any United States patent by such product or by such materials, designs or specifications; provided that prompt written notice be given to the party from whom indemnity is sought of the bringing of the suit and an opportunity be given to such party to settle or defend it as that party may see fit and that every reasonable assistance in settling or defending it shall be rendered. Parkson shall in no event be liable to Buyer for special, indirect, incidental or consequential damages arising out of allegation of patent infringement.

XVI. MECHANICAL WARRANTY: For a period of one (1) year following the Equipment shipment date ("Warranty Period"), Parkson's Equipment is limitedly warranted to be free from defective material and workmanship, under normal use and service and when installed, operated and maintained in accordance with installation instructions, this policy and maintenance/operating procedures. To make claim under this Warranty, Buyer must notify Parkson within ten (10) business days after the date of discovery of any nonconformity and make the affected Equipment immediately available for inspection by Parkson or its service representative. Parkson Equipment may be deemed nonconforming only by an authorized Parkson representative. Returns will not be accepted unless Parkson has authorized said return in writing. If Parkson's inspection indicates nonconforming materials and/or workmanship, the Equipment will, at Parkson's option, either be repaired or replaced without charge. Upon receipt of Parkson's written consent, Equipment may be promptly returned to Parkson, F.O.B. its factory. However, under certain circumstances, Parkson may decide, in its sole discretion, to repair or replace the Equipment at the Project site. Buyer hereby agrees to provide Parkson, its employees and/or representatives, free of charge, on-site access to the Project site, and any necessary utilities and plant personnel needed by Parkson for the purpose of repairing and/or replacing nonconforming Equipment per this Warranty.

The following will void this Warranty:

- (A) Equipment is used for purposes other than those for which it was designed;
- (B) Equipment is not used in accordance with generally approved practices;
- (C) Disasters, whether natural or manmade, such as fire, flood, wind, earthquake, cave-in, lightning, war, or vandalism;



- (D) Unauthorized alterations to or modifications of the Equipment not approved by Parkson, in writing;
- (E) Abuse, neglect or misuse of Equipment, including without limitation, operation of Equipment after a defect is discovered;
- (F) Operation of Equipment by persons not properly trained for that purpose;
- (G) Failure to operate the Equipment in accordance with Parkson's specifications, O&M manuals or other written guidelines; and/or
- (H) Failure to perform regular cleaning, inspection, adjustment and/or preventative maintenance.

BE ADVISED: Parkson is not liable for any corrective work or expenditure that has not been authorized by Parkson in writing prior to the commencement of such work and prior to committing to such expenditures. Inspection service calls, requested by Buyer, where no evidence of nonconforming materials and/or workmanship is found, will be invoiced to the Buyer at Parkson's current per diem, plus all travel and living expenses. Onsite labor and freight are not covered by this Warranty. This Warranty does not cover normal wear and tear. Following a Warranty claim, verification of proper operation and maintenance is required. Physical damage due to external forces and/or accident is not covered by this Warranty. The effects of corrosion and unforeseeable influent characteristics are excluded from this Warranty. Actions by 3rd parties in causing nonconformity of the Equipment are not covered under this Warranty.

THE FOREGOING LIMITED WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER GUARANTEES AND WARRANTIES OF ANY KIND WHATSOEVER, WRITTEN, ORAL OR IMPLIED; ALL OTHER WARRANTIES INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY AND/OR FITNESS FOR A PARTICULAR PURPOSE, ARE HEREBY DISCLAIMED.

XVII. INDEMNIFICATION: Buyer shall comply and require its employees to comply with all instructions given by Parkson regarding installation, use and maintenance of the Equipment sold by Parkson and shall require its employees to use reasonable care and all safety devices in the operation and maintenance of said Equipment. Buyer shall not remove or permit removal or modification of any safety device, warning sign or label. Buyer shall immediately give Parkson written notice of any personal injury or property damage arising out of the use of the Equipment and cooperate with Parkson in investigating any such accident or malfunction. Buyer agrees to indemnify and hold Parkson and its suppliers harmless from any and all claims, demands, liabilities, causes of action, suits, costs and expenses of any kind and nature (including attorney's fees) for personal injury or property damage arising from or in any way connected with the operations, activities or use of the Equipment sold by Parkson if Buyer fails to fulfill any of the foregoing obligations. Buyer agrees to indemnify and hold Parkson and its suppliers harmless from any and all claims, demands, liabilities, causes of action, suits, costs and expenses of any kind or nature (including attorney's fees) which may be asserted against Parkson and its suppliers by any person relating to any portion of the Equipment which includes Buyer's existing equipment or equipment furnished by Buyer and to defend Parkson and its suppliers at Buyer's expense against any suit which may be commenced relating to the foregoing. Buyer agrees to indemnify and hold Parkson and its suppliers harmless from any and all claims, demands, liabilities, causes of action, suits, costs and expenses of any kind or nature (including attorney's fees) for loss or damage to persons or property, other than the Equipment sold hereby or Buyer's possession or use of said Equipment.

XVIII. MISCELLANEOUS: Parkson does not assume responsibility for nor warrant the performance or accuracy of Buyer's furnished design, design criteria, or specifications. The parties agree that the foregoing terms and conditions constitute the entire terms and conditions between Buyer and Parkson and that there are no other agreements, terms or conditions, expressed or implied, unless otherwise agreed to in writing by Parkson. The terms and conditions herein shall supersede any terms and conditions of any other document that may apply to the transaction between the Buyer and Parkson. This document may not be modified or superseded other than by an instrument in writing signed by both Buyer and Parkson. This document shall be binding upon and inure to the benefit of Buyer and Parkson and their heirs, assignees, legal representatives and the project Owner for the project referenced in the quotation. The invalidity or non-enforceability of any particular provision of this document shall not affect the other provisions hereof, and this document shall be construed in all respects as if such invalid or unenforceable provisions were omitted.



562 Bunker Court
Vernon Hills IL 60061-1831

Phone 847.816.3700
Fax 847.816.3707

Page 1

October 13, 2015

City of Fairfield
Attn: Mr. Joe Hennies

Ref: Parkson Hypress® unit

The Henry P. Thompson Company is Parkson's exclusive representative for all municipal products in the State of Ohio. This includes the Hypress® ram-type screenings compactor unit.

Sincerely,

A handwritten signature in cursive script that reads "Joseph G. Nagel".

Joseph G. Nagel
Municipal Sales
847/837-4952

Fort Lauderdale ♦ Chicago ♦ Montreal ♦ Sao Paulo ♦ Dubai

www.parkson.com
technology@parkson.com

ITEM NO. 11(A)2A-2

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATIONS**

ITEM:

DATE: 10/26/15

The appropriation of funds for the improvements to the Village Green Park/Town Center Campus.

FINANCIAL IMPACT:

An appropriation of \$ 15,000.00 will be needed

SYNOPSIS:

The project will provide for the replacement of holiday lights from incandescent bulbs to LED light bulbs to allow for cost savings in the electrical usage every year.

BACKGROUND:

The Parks and Recreation Board's 2015-2019 Capital Improvement Program (PRK-15-004) provides funding for continue upgrades of LED holiday lighting within the Village Green/Town Center area. The current project will reduce electrical usage by several thousand dollars a year.

VENDOR	ITEM	AMOUNT
Display Sales	18' Outdoor Tree with LED lights	\$ 4,929.00
Display Sales	375 strands of LED wide angle Mini light sets	\$ 9,375.00
Display Sales	Shipping	\$ 690.00
	TOTAL	\$ 14,994.00

RECOMMENDATION:

It is recommended that City Council authorize and direct the preparation of legislation authorizing the appropriation of \$15,000.00 for this project.

LEGISLATIVE ACTION:

Suspension of Rules/Adoption Requested: YES () NO (X) If yes, explain above.

Emergency Provision Needed: YES () NO (X) If yes, explain above.

Prepared by: B. Schappacher

Approved for Content by: [Signature]

Financial Review (where applicable): May [Signature]

Legal Review (where applicable): [Signature]

Accepted for Council Agenda: [Signature]

Project Number: PRK-15-004 **Dept:** PARKS **Bid Date:** 04/01/2015 **Priority:** Minor **Need:** Improve Efficiency Service Level

Village Green Park/Town Center Campus

Misc. upgrades / renovations to Village Green Park, Library and Town Center;
 2015 - Continued upgrades of LED holiday lighting within campus area (cost savings in electrical usage)
 2016-2019 - Miscellaneous repairs/renovations/upgrades within campus area



Year	2015	2016	2017	2018	2019
Amount	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00	\$15,000.00

City Funding Source: Downtown Development Fund **Amount:** \$75,000.00

Planning / Engineering / Legal: \$0.00 **Impact On Operating Personnel Costs:** \$0.00
Acquisition of Property / ROW: \$0.00 **Other Costs:** \$0.00
Construction: \$75,000.00 **Total Operating Costs:** \$0.00
Equipment / Vehicle: \$0.00
City's Cost: \$75,000.00 **Outside Funding:** \$0.00 **Total Cost:** \$75,000.00

Mountain Pine Tree

Closed Style Wide Base "Spiral" Pop-up Trees

11' Tree, 5.3' Wide Base, 113 C9 Bulbs

Incandescent \$1934

LED \$2190

13' Tree 6' Wide Base, 152 C9 Bulbs

Incandescent \$2427

LED \$2771

15' Tree 7' Wide Base, 208 C9 Bulbs

Incandescent \$3223

LED \$3694

18' Tree 8' Wide Base, 288 C9 Bulbs

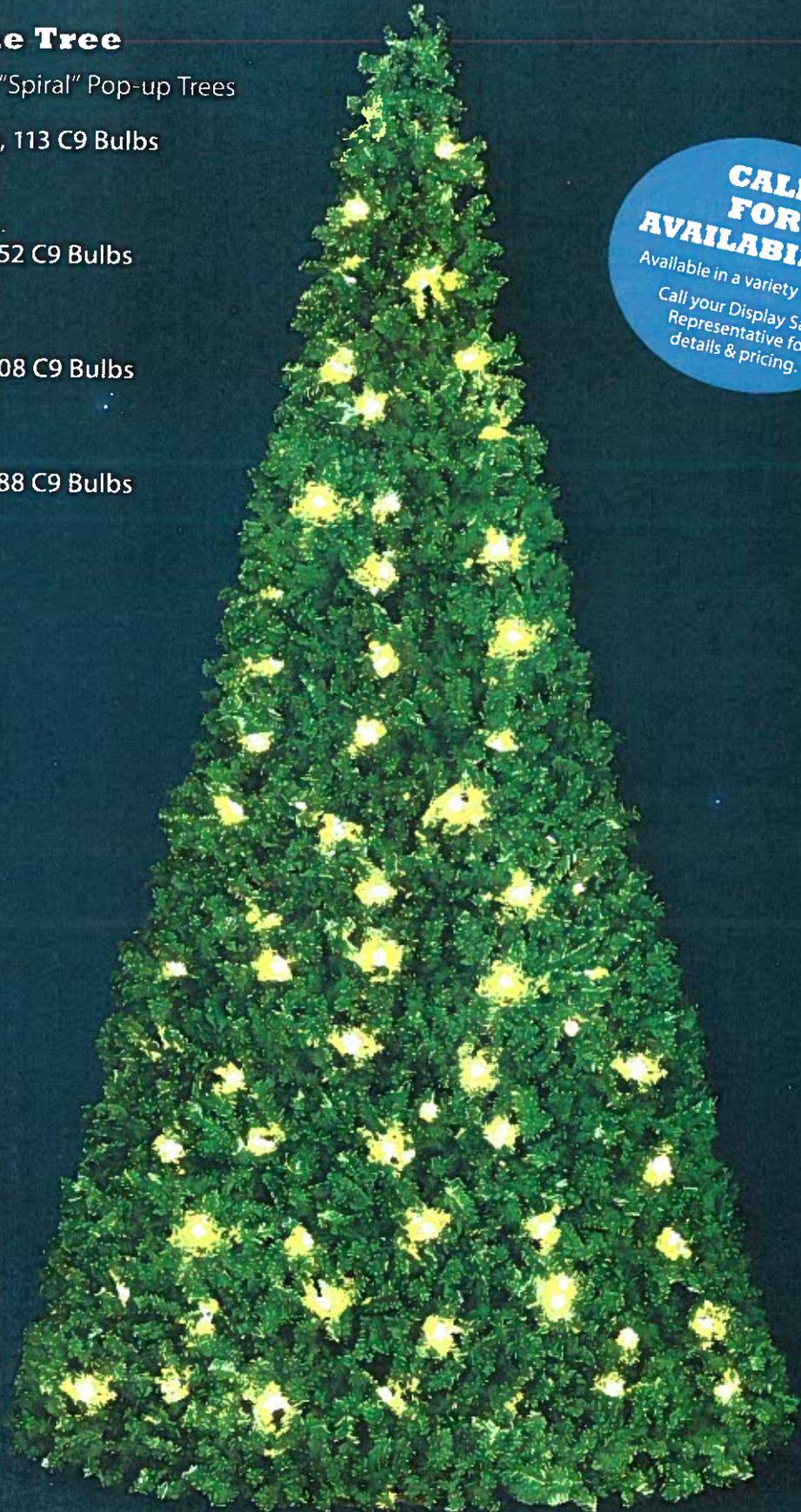
Incandescent \$4278

LED \$4929

**CALL
FOR
AVAILABILITY**

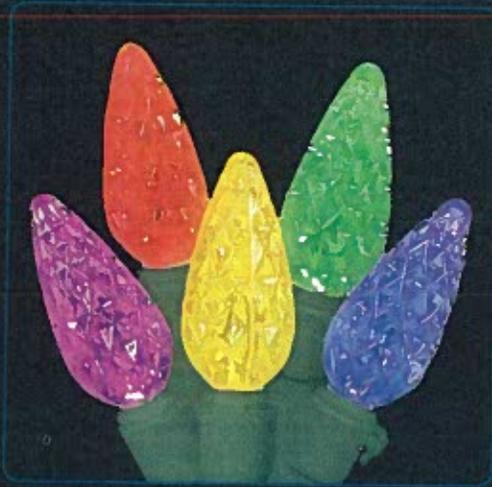
Available in a variety of sizes.

Call your Display Sales
Representative for
details & pricing.



LED Mini-Light Sets

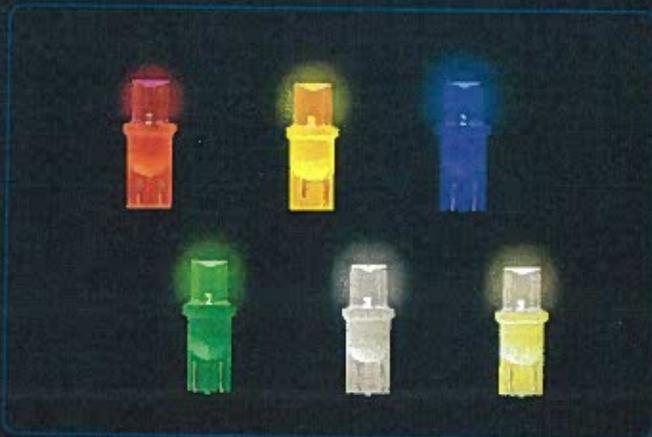
LED Crystal Cut Mini-Light Sets



LED CRYSTAL CUT MINI-LIGHT SETS C-6, 100 LIGHTS	1-48	49+
Blue ● Clear ● Green ● Purple ● Warm White ● Multi-color	\$33.00	\$32.00
● Gold ● Red ● Yellow	\$31.00	\$30.00
● Warm White with <i>White Wire</i> (not shown)	\$22.95	\$21.60
LED CRYSTAL CUT MINI-LIGHT SETS C-6, 50 LIGHTS	1-48	49+
Blue ● Clear ● Green ● Purple ● Warm White ● Multi-color	\$19.00	\$16.00
● Gold ● Red ● Yellow	\$17.00	\$16.00

Brilliant energy-saving bulbs
Indoor or outdoor use
Connect up to 20 sets

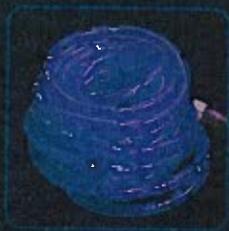
LED Wide Angle Mini-Light Sets



100 LIGHT LED WIDE ANGLE MINI-LIGHT SETS	1-48	49+
● Clear ● Warm White	\$26.00	\$25.00
● Green ● Blue ● Multi-color	\$24.00	\$23.00
● Gold ● Red	\$23.00	\$22.00
50 LIGHT LED WIDE ANGLE MINI-LIGHT SETS	1-48	49+
● Clear ● Warm White	\$16.00	\$15.00
● Green ● Blue ● Multi-color	\$15.00	\$14.00
● Gold ● Red	\$14.00	\$13.00
150 NET LIGHT LED WIDE ANGLE MINI-LIGHT SETS	1-48	49+
● Warm White (not shown)	48.00	\$46.00

Indoor or outdoor use
Connect up to 20 sets

LED & Incandescent Rope Lights



For all colors
of LED Rope Lights
the housing coil
is translucent

LED ROPE LIGHT COIL 1/2", 150' Rope Light Coil	1-4	5-10
● Blue ● Clear ● Green	\$442	\$410
● Red ● Yellow	\$316	\$291
INCANDESCENT ROPE LIGHT COIL 1/2", 150' Rope Light Coil	1-4	5-10
● Blue ● Clear ● Gold ● Green ● Red	\$164	\$151
INCANDESCENT ROPE LIGHT COIL 3/8", 150' Rope Light Coil	1-4	5-10
● Blue ● Clear ● Gold ● Green ● Red	\$143	\$137

Lights are spaced every 1" along the rope
Rope can be cut every 36" for flexibility in designs
Comes with 2 power, cords, connector and end cap
Additional accessories listed on page 55

ITEM NO. 11 (A)2A3

**CITY OF FAIRFIELD, OHIO
CITY COUNCIL MEETING COMMUNICATION**

ITEM:

DATE: 10/26/15

It is necessary for City Council to authorize an appropriation for upgrades and maintenance at the Community Arts Center.

FINANCIAL IMPACT:

An appropriation of \$5,335.00 will be necessary to fund this proposal.

SYNOPSIS:

It is necessary for City Council to authorize an appropriation for upgrades and maintenance at the Community Arts Center.

BACKGROUND:

In the Parks and Recreation Board's 2015-2019 Capital Improvement Program, the Board identified a series of upgrades and/or maintenance items for the Community Arts Center (PRK-15-001). These items include the replacement of mini blinds in Community Room A, B and C and the classroom.

VENDOR	ITEMS	AMOUNT
CWS	15 Flex Shades with Solar Fabric and Blackout Fabric A,B,C	\$ 4,280.00
CWS	1 Flex Shade with Solar Fabric and Blackout Fabric classroom	\$ 570.00
	10% Contingency	\$ 485.00
TOTAL		\$ 5,335.00

RECOMMENDATION:

It is recommended that the City Council authorize and direct the preparation of legislation authorizing an appropriation of \$ 5,335.00 from the 2015-2019 Capital Improvement Program for upgrades and maintenance at the Community Arts Center.

LEGISLATIVE ACTION:

Suspension of Rules/Adoption Requested: YES () NO (X) If yes, explain above.

Emergency Provision Needed: YES () NO (X) If yes, explain above.

Prepared by: B Schappacher
Approved for Content by: [Signature]
Financial Review (where applicable): Mary Ann
Legal Review (where applicable): [Signature]
Accepted for Council Agenda: [Signature]

Project Number: PRK-15-001 **Dept:** PARKS **Bid Date:** 04/01/2015 **Priority:** Minor **Need:** Improve Current Service Level

Community Arts Center

Renovations / Upgrades at the Community Arts Center
 2015 - Replacement of furniture in lobby, green room and senior lounge
 2016-2019 Sound/Light Contingency and FF&E



2015	2016	2017	2018	2019
\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00	\$25,000.00

City Funding Source:
 Capital Improvement Fund **Amount:** \$125,000.00

Planning / Engineering / Legal: \$0.00
Acquisition of Property / ROW: \$0.00
Construction: \$0.00
Equipment / Vehicle: \$125,000.00
Impact On Operating Personnel Costs: \$0.00
Other Costs: \$0.00
Total Operating Costs: \$0.00

City's Cost: \$125,000.00 **Outside Funding:** \$0.00 **Total Cost:** \$125,000.00

Proposal

CWS Contract

3004 Harris Avenue
 Cincinnati, OH 45212
 Phone (513) 631 - 7200 Toll Free (800) 853 - 6214 Fax (513) 631 -8862

PROPOSAL QUANTITY TO	PHONE	DATE
CITY OF FAIRFIELD		10/15/2015
STREET	JOB NAME	
	FAIRFIELD COMMUNITY ARTS CENTER	
CITY, STATE AND ZIP CODE	JOB LOCATION	
	FAIRFIELD, OHIO	
CONTRACT	TAX	DATE OF PLANS
HEIDI SCHILLER		

Proposal good for acceptance up to 90 days from above date.

We shall hereby to furnish materials and/or labor - complete in accordance with the description below. For the sum of

SEE BELOW dollars

TERMS: **NET 30 DAYS FROM INVOICE.**

Addendum Noted None 1 2 3 4

We hereby submit specifications and estimates for work described below:

SPECIFICATION SECTION:

12 DRAPER, INC., MANUAL FLEXSHADES WITH SW4000 SOLAR FABRIC, 5% OPENNESS, COLOR TO BE SELECTED FROM MANUFACTURER'S STANDARDS. WITH ANNODIZED FRONT FASCIA.

3 DRAPER, INC., FIXED ARCHES WITH SW4000 SOLAR FABRIC, 5% OPENNESS, COLOR TO BE SELECTED FROM MANUFACTURER'S STANDARDS. MOUNTED TO FRAMES WITH VELCRO.

BASE BID MATERIALS AND LABOR \$ **3,100.00**

8 DRAPER, INC., MANUAL FLEXSHADES WITH SW4000 SOLAR FABRIC, 5% OPENNESS, COLOR TO BE SELECTED FROM MANUFACTURER'S STANDARDS. WITH ANNODIZED FRONT FASCIA.

4 DRAPER, INC., MANUAL DUAL FLEXSHADES WITH SW4000 SOLAR FABRIC, 5% OPENNESS AND SW7000 BLACKOUT FABRIC. COLORS TO BE SELECTED FROM MANUFACTURER'S STANDARDS. WITH ANNODIZED FRONT DUAL FASCIA.

3 DRAPER, INC., FIXED ARCHES WITH SW4000 SOLAR FABRIC, 5% OPENNESS, COLOR TO BE SELECTED FROM MANUFACTURER'S STANDARDS. MOUNTED TO FRAMES WITH VELCRO.

BASE BID MATERIALS AND LABOR \$ **4,280.00**

PRICE DOES NOT INCLUDE ELECTRIC WIRE, WIRING OR HOOK - UP (NO POWER OR CONTROL), PROVIDED BY OTHERS, AT OTHERS EXPENSE.

PROJECT FABRIC IS SUBJECT TO AVAILABILITY AT THE TIME OF PROJECT COMMENCEMENT.

PRICE DOES NOT INCLUDE BLOCKING, PROVIDED BY OTHERS, AT OTHERS EXPENSE.

PRICE BASED ON INSTALLATION BY OPEN SHOP LABOR OR PREVAILING WAGE.

PRICE DOES NOT INCLUDE PERFORMANCE BOND, IF REQUIRED, IT WILL BE PROVIDED AT AN ADDITIONAL PRICE QUOTED.

PRICE BASED ON OWNER/CONTRACTOR PROVIDING ON SITE SECURE STORAGE AT OWNER/CONTRACTORS EXPENSE.

PRICE BASED ON INSTALLATION TO BE UNENCUMBERED BY PERSONNEL AND EQUIPMENT OR FURNITURE.

PRICE BASED ON INSTALLATION DURING REGULAR BUSINESS HOURS.

PRICE BASED ON UNEMPIDED ACCESS TO THE SITE.

PRICE BASED ON THIS PROPOSAL, ROOM SCHEDULE AND ALL QUALIFICATIONS TO BECOME PART OF ANY CONTRACT.

PRICE INCLUDES ALL STANDARD FREIGHT, EXPEDITED FREIGHT AT THE EXPENSE OF OTHERS.

PRICE GOOD FOR 60 DAYS

PRICE DOES NOT INCLUDE SHELF STOCK.

PRICE BASED ON ONE TIME: 1) MEASURE 2) ORDER 3) INSTALL

Quotation prepared for Seller by:

Signature *Joe Prude*
 JOE PRUDE

Quotation accepted for Buyer by:

Signature _____

Date of Acceptance: _____

ORDINANCE NO. _____

ORDINANCE TO AMEND ORDINANCE NO. 109-14 ENTITLED "AN ORDINANCE TO MAKE ESTIMATED APPROPRIATIONS FOR THE EXPENSES AND OTHER EXPENDITURES OF THE CITY OF FAIRFIELD, OHIO, DURING A PERIOD BEGINNING JANUARY 1, 2015, AND ENDING DECEMBER 31, 2015."

BE IT ORDAINED by the Council of the City of Fairfield, Ohio, that:

Section 1. Ordinance No. 109-14, the 2015 Appropriation Ordinance, is hereby amended in the following respects:

From: Unappropriated Sewer Surplus Fund \$39,500

To: 62416025-253200 Capital Equipment \$39,500
(Replacement of Hypress Screening Press)

From: Unappropriated Downtown Development Fund \$15,000

To: 41116025-252000 Improvements Other Than Building \$15,000
(Outdoor Tree and LED Lights for Village Green)

From: Unappropriated Capital Improvement Fund \$5,335

To: 40216025-252000 Improvements Other Than Building \$5,335
(Blackout Screens for Community Arts Center Classroom)

Section 2. This Ordinance shall take effect at the earliest period allowed by law.

Passed _____ Mayor's Approval _____
Posted _____
First Reading _____ Rules Suspended _____
Second Reading _____

Third Reading _____

ATTEST:

Clerk of Council

This is to certify that this Ordinance has been duly published by posting and summary publication as provided by Charter.

Clerk of Council