

**CITY OF DELAWARE  
CITY COUNCIL  
CITY COUNCIL CHAMBERS  
1 SOUTH SANDUSKY STREET  
7:00 P.M.**

**AGENDA**

**6:30 P.M. EXECUTIVE SESSION:** pursuant to Ohio Revised Code Section 121.22 (G) (3) pending or imminent court action, Section 121.22 (G) (1) personnel, Section 121.22 (G) (5) matters required to be kept confidential by State statute, Section 121.22 (G) (2) acquisition of property for public purpose and 121.22(G) (8) consideration of confidential information related to a request for economic development assistance.

REGULAR MEETING

NOVEMBER 23, 2015

1. ROLL CALL
2. INVOCATION
3. PLEDGE OF ALLEGIANCE
4. APPROVAL of the Motion Summary of the Special meeting of Council held November 2, 2015, as recorded and transcribed.  
APPROVAL of the Motion Summary of the regular meeting of Council held November 9, 2015, as recorded and transcribed.
5. CONSENT AGENDA
  - A. Acceptance of the Motion Summary of the Parking and Safety Committee meeting held August 17, 2015.
  - B. Acceptance of the Motion Summaries of the Parks and Recreation Advisory Board meetings held August 18, September 15 and October 20, 2015.
  - C. Acceptance of the Motion Summary of the Shade Tree Commission meeting held August 25, 2015.
  - D. Acceptance of the Motion Summary of the Historic Preservation Commission meeting held October 28, 2015.
6. LETTERS, PETITIONS, AND PUBLIC COMMENTS
7. COMMITTEE REPORTS

8. CONSIDERATION OF A LIQUOR PERMIT TRANSFER
  - A. From Bellacinos of Columbus, Inc., DBA Shortys, 554 W. Central Ave., Delaware, Ohio 43015 to IC of Ohio, LLC, DBA Shortys, 554 W. Central Ave., Delaware, Ohio 43015. Permit Classes: D1 and D2
9. CONSIDERATION of Resolution No. 15-54, a resolution accepting/rejecting the recommendations on unresolved issues pertaining to the modification of the collective bargaining agreement between the IAFF and the City of Delaware.
10. 7:30 PUBLIC HEARING AND SECOND READING of Ordinance No. 15-112, an ordinance adding a new Chapter 192 to the Codified Ordinances of the City of Delaware regarding Municipal Income Tax.
11. 7:45 FIRST PUBLIC HEARING AND FIRST READING of Ordinance No. 15-113, an ordinance making appropriations for the Year 2016, and declaring an emergency.
12. CITY MANAGER'S REPORT
13. COUNCIL COMMENTS
14. ADJOURNMENT

# RECORD OF PROCEEDINGS

Minutes of Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held November 2 20 15

The Special meeting of November 2, 2015 was called to order at 6:22 p.m., in the City Council Chambers. The following members of Council were present: Second Ward Lisa Keller, Fourth Ward Andrew Brush, At Large Kent Shafer, Vice Mayor George Hellinger and Mayor Carolyn Kay Riggle who presided. Absent from the meeting was First Ward Chris Jones, and Third Ward Joe DiGenova.

Staff Present: Darren Shulman, City Attorney, Dean Stelzer, Finance Director, Sean Hughes, Economic Development Director, Brad Stanton, Public Utilities Director, Dave Efland, Planning and Community Development Director, Bruce Pijanowski, Police Chief, Lee Yoakum, Community Affairs Coordinator, Jackie Walker, Assistant City Manager, and Tom Homan, City Manager

**Sakata Delegation:**

Mr. Kotaro Murakami, Superintendent of Sakata City Board of Education  
Mr. Koji Hori, Vice chairman of Sakata City Council  
Mr. Tetsuo Yoshikawa, Vice Chairman of Sakata Chamber of Commerce  
Mr. Ken Matsuta, Professor, Assistant to the President of Tohoku University of Community Service and Science  
Ms. Rika Abe, Assistant Section Chief, International Exchange Section, attending as secretary of the delegation

**ITEM 2: PRESENTATIONS**

- A. City of Sakata, Japan
- B. City of Delaware, Ohio

**ITEM 3: RESOLUTION OF COOPERATION AS SISTER CITIES**

**ITEM 4: PRESENTATION OF GIFTS**

**ITEM 5: PLANTING OF THE SISTER CITY TREE**

**ITEM 6: ADJOURNMENT**

**Motion:** Mayor Riggle moved to adjourn the meeting. The meeting adjourned at 7:28 p.m.

\_\_\_\_\_  
Mayor Carolyn Kay Riggle

\_\_\_\_\_  
Elaine McCloskey, Council Clerk

# RECORD OF PROCEEDINGS

Minutes of Delaware City Council

Meeting \_\_\_\_\_

BEAR GRAPHICS 800-325-9094 FORM NO. 10148

Held November 9 20 15

**6:30 EXECUTIVE SESSION:** Mr. Brush moved to enter into Executive Session at 6:30 p.m. Seconded by Mr. Shafer and approved by a 6-0 vote. Council met in executive session pursuant to Ohio Revised Code Section 121.22 (G) (3) pending or imminent court action, Section 121.22 (G) (1) personnel, Section 121.22 (G) (5) matters required to be kept confidential by State statute, and Section 121.22 (G) (2) acquisition of property for public purpose. Council conducted a discussion of those items with the following members present: First Ward Chris Jones, Third Ward Joe DiGenova, Fourth Ward Andrew Brush, At Large Kent Shafer, Vice Mayor George Hellinger and Mayor Carolyn Kay Riggle. Absent from the discussion was Second Ward Lisa Keller. Following the discussion at 6:45 p.m., it was moved by Mr. Brush that Council move into Open session, seconded by Mr. DiGenova and approved by 6-0 vote.

The regular meeting of November 9, 2015 was called to order at 7:00 p.m., in the City Council Chambers. The following members of Council were present: First Ward Chris Jones, Third Ward Joe DiGenova, Fourth Ward Andrew Brush, At Large Kent Shafer, Vice Mayor George Hellinger and Mayor Carolyn Kay Riggle who presided. Absent from the meeting was Second Ward Lisa Keller. The invocation was given by Chaplain Jeff Slider, followed by the Pledge of Allegiance.

Staff Present: Darren Shulman, City Attorney, Sean Hughes, Economic Development Director, Dave Efland, Planning and Community Development Director, Scott Stowers, IT Director, Dean Stelzer, Finance Director, Bill Ferrigno, Public Works Director, Brad Stanton, Public Utilities Director, John Donahue, Fire Chief, Bruce Pijanowski, Police Chief, Jackie Walker, Assistant City Manager, and Tom Homan, City Manager

**Motion to Excuse:** Mr. Brush moved to excuse Mrs. Keller, seconded by Mr. Shafer. Motion approved by a 6-0 vote.

#### **ITEM 4: APPROVAL OF MINUTES**

APPROVAL of the Motion Summary of the regular meeting of Council held October 26, 2015, as recorded and transcribed.

**Motion:** Mr. Brush moved to approve the Motion Summary for the regular meeting of Council held October 26, 2015, seconded by Mr. DiGenova. Motion approved by a 5-0-1 (Shafer) vote.

#### **ITEM 5: CONSENT AGENDA**

- A. Establish November 23, 2015 at 7:45 p.m. as the date and time for a public hearing and second reading of Ordinance No. 15-112, an ordinance adding a new Chapter 192 to the Codified Ordinances of the City of Delaware regarding Municipal Income Tax.
- B. Establish November 23, 2015 at 7:45 p.m. as the date and time for the first reading and first public hearing of Ordinance No. 15-113, an ordinance making appropriations for the year 2016, and declaring an emergency
- C. Establish December 14, 2015 at 7:30 p.m. as the date and time for a second reading and second public hearing of Ordinance No. 15-113, an ordinance making appropriations for the year 2016, and declaring an emergency.
- D. Acceptance of the Motion Summary for the Historic Preservation Commission meeting held September 30, 2015.

RECORD OF PROCEEDINGS

Minutes of Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held November 9 20 15

- E. Acceptance of the Motion Summary for the Civil Service Commission meeting held October 7, 2015.
- F. Acceptance of the Motion Summary for the Planning Commission meeting held October 7, 2015.
- G. Resolution No. 15-52, a resolution accepting the public improvements for the Communities at Glenross, Section 5.
- H. Resolution No. 15-53, a resolution appointing members to the Civil Service Commission, and specifying the term of the appointments.

**Motion:** Mr. Brush moved to approve the Consent Agenda, seconded by Mr. Shafer. Motion approved by a 6-0 vote.

**ITEM 6: LETTERS, PETITIONS, AND PUBLIC COMMENTS**

**ITEM 7: COMMITTEE REPORTS**

Mr. DiGenova provided an update on the restoration of the cannon for Veterans Memorial.

Mr. Brush discussed the vacancies that will be open on the various committees that he serves on and will need a replacement. Mr. Brush discussed the need to represent the City of Delaware on the MORPC committee.

Mr. Shafer indicated that there will be a Parking and Safety meeting on November 16, 2016 after the City Council Organizational Meeting.

**ITEM 8: PRESENTATIONS:**

- A. Proclamation honoring Fourth Ward Council Member Andrew Brush for his service to the City of Delaware and its citizens.

**ITEM 9: ORDINANCE NO. 15-108** [First Reading]

AN ORDINANCE APPROVING A COMBINED PRELIMINARY AND FINAL DEVELOPMENT PLAN FOR THE WILLOW BROOK CHRISTIAN VILLAGE AT DELAWARE RUN FOR A "WING H" ADDITION AND DINING ROOM EXPANSION ON APPROXIMATELY 47.35 ACRES LOCATED AT 100 DELAWARE CROSSING WEST ON PROPERTY ZONED PO/I (PLANNED OFFICE/INSTITUTIONAL).

The Clerk read the ordinance for the first time.

Mr. Efland provided a presentation of the overall site plan and expansion plans.

**APPLICANT:**

Michael Shade  
P.O. Box 438  
Delaware, Ohio

Larry Harris  
100 Delaware Crossing West  
Delaware, Ohio

**Motion:** Mr. Brush moved to suspend the rules for Ordinance No. 15-108, seconded by Mr. DiGenova. Motion approved by a 6-0 vote.

RECORD OF PROCEEDINGS

Minutes of Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held November 9 20 15

**Motion:** Mr. Brush moved to adopt Ordinance No. 15-108, seconded by Mr. DiGenova. Motion approved by a 6-0 vote.

**ITEM 10: ORDINANCE NO. 15-109** [First Reading]  
AN ORDINANCE AUTHORIZING THE CITY MANAGER TO ENTER INTO AN INTERGOVERNMENTAL COOPERATION AGREEMENT WITH THE DELAWARE COUNTY COMMON PLEAS COURT, DELAWARE COURT OF COMMON PLEAS CLERK OF COURTS, AND THE DELAWARE COUNTY SHERIFF TO ESTABLISH A CONTINUATION OF OPERATION PLAN, AND DECLARING AN EMERGENCY.

The Clerk read the ordinance for the first time.

**Motion:** Mr. Brush moved to suspend the rules for Ordinance No. 15-109, seconded by Mr. Shafer. Motion approved by a 6-0 vote.

**Motion:** Mr. Brush moved to enact the emergency clause for Ordinance No. 15-109, seconded by Mr. Shafer. Motion approved by a 6-0 vote

**Motion:** Mr. Brush moved to adopt Ordinance No. 15-109, seconded by Mr. Shafer. Motion approved by a 6-0 vote

**ITEM 11: ORDINANCE NO. 15-110** [First Reading]  
AN ORDINANCE SUPPLEMENTING THE 2015 APPROPRIATIONS ORDINANCE TO PROVIDE ADDITIONAL FUNDING FOR VARIOUS WATER PLAT LINE ITEM ACCOUNTS, AND DECLARING AN EMERGENCY.

The Clerk read the ordinance for the first time.

Discussion held with Council on the potential need for a city utility rate increase.

**Motion:** Mr. Brush moved to suspend the rules for Ordinance No. 15-110, seconded by Mr. Shafer. Motion approved by 6-0 vote.

**Motion:** Mr. Brush moved to enact the emergency clause for Ordinance No. 15-110, seconded by Mr. Shafer. Motion approved by 6-0 vote.

**Motion:** Mr. Brush moved to adopt Ordinance No. 15-110, seconded by Mr. Shafer. Motion approved by a 6-0 vote.

**ITEM 12: ORDINANCE NO. 15-111** [First Reading]  
AN ORDINANCE SUPPLEMENTING THE 2015 APPROPRIATIONS ORDINANCE TO ESTABLISH ADDITIONAL FUNDING FOR THE AIRPORT RUNWAY EXTENSION PROJECT, AND DECLARING AN EMERGENCY.

The Clerk read the ordinance for the first time.

**Motion:** Mr. Brush moved to suspend the rules for Ordinance No. 15-111, seconded by Mr. Shafer. Motion approved by 6-0 vote.

**Motion:** Mr. Brush moved to enact the emergency clause for Ordinance No. 15-111, seconded by Mr. Shafer. Motion approved by 6-0 vote.

RECORD OF PROCEEDINGS

Minutes of Delaware City Council

Meeting

BEAR GRAPHICS 800-325-8094 FORM NO. 10148

Held November 9 20 15

**Motion:** Mr. Brush moved to adopt Ordinance No. 15-111, seconded by Mr. Shafer. Motion approved by a 6-0 vote.

**ITEM 13: ORDINANCE NO. 15-112** [First Reading]  
AN ORDINANCE ADDING A NEW CHAPTER 192 TO THE CODIFIED ORDINANCES OF THE CITY OF DELAWARE REGARDING MUNICIPAL INCOME TAX.

The Clerk read the ordinance for the first time.

There is a public hearing set for November 23, 2015 at 7:45 p.m.

Mr. Stelzer discussed the need implement changes required by House Bill 5.

Mr. Brush discussed the potential need for an emergency clause and recommended to remove the existing Chapter 191 Income Tax of the City of Delaware from legislature.

**ITEM 14: CITY MANAGER'S REPORT**

Mr. Homan provided an update on the expected date to present to Council the budget.

Mr. Homan provided an update on the Wayfinding project.

Mr. Homan discussed the successful registration of the upcoming Ironman Triathlon.

**ITEM 15: COUNCIL COMMENTS**

Mr. DiGenova provided information on the upcoming Veteran's Day celebration at SourcePoint.

Mr. Shafer confirmed the time for the Parking and Safety meeting for November 16, 2015.

Mayor Riggle discussed the recent Veteran's Day parade.

**ITEM 15: ADJOURNMENT**

**Motion:** Mr. Brush moved to adjourn the meeting. The meeting adjourned at 8:02 p.m.

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Mayor Carolyn Kay Riggle

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Elaine McCloskey, Council Clerk

**PARKING AND SAFETY COMMITTEE  
MOTION SUMMARY  
August 17, 2015**

ITEM 1. ROLL CALL

Chairman Shafer called the meeting to start at 7:00 p.m.

Members Present: Councilman Chris Jones and Chairman Kent Shafer

Members Absent: Vice-Chairwoman Lisa Keller

Staff Present: Bill Ferrigno, Public Works Director, Bruce Pijanowski, Police Chief, John Donahue, Fire Chief, and Jessica Ormeroid, Project Engineer

**Motion to Excuse:** Mr. Jones moved to excuse Vice-Chairwoman Keller, seconded by Chairman Shafer. Motion approved with a 2-0 vote.

ITEM 2. APPROVAL of the Motion Summary of the Parking and Safety Committee meeting held May 18, 2015, as recorded and transcribed.

**Motion:** Mr. Jones moved for the approval of the Motion Summary of the Parking and Safety Committee meeting held May 18, 2015, seconded by Chairman Shafer. Motion approved by a 2-0 vote.

ITEM 3. PUBLIC COMMENT

Keith & Denise Falzone  
67 Troy Road  
Delaware, Ohio 43015

Mr. Falzone requested consideration of amending the current city ordinance to limit the amount of dogs that may reside in household residence. Mr. Falzone requested consideration of an amended ordinance that focuses on the condition of the animals. Chairman Shafer requested staff provide research at the next Parking and Safety Committee meeting.

ITEM 4. DISCUSSION

A. The Relocation of "No Parking From Here to Corner" signage located on North Liberty Street, just south of Griswold Street at the property 125 North Liberty Street.

Ms. Ormeroid discussed the research conducted on a resolution in 1987. Discussed no current issues of relocation of the signage by staff.

PUBLIC COMMENT:

Roger Koch  
125 North Liberty Street  
Delaware, Ohio 43015

Mr. Koch voiced his concern regarding the lack of parking for the rental house next to his property and that there are many cars parked in front of his property.

Stephanie Merkel  
147 North Liberty Street  
Delaware, Ohio 43015

Ms. Merkel her voiced concerns over the sharp turn onto Liberty and that without the current signage it will be difficult to make a turn and get around parked cars. Ms. Merkel stated her concerns on the amount of cars that are parked from the rental property and the repeated calls to this residence to the police.

Ms. Merkel and Mr. Koch in agreement to have signage moved back to the property lines.

**Motion:** Mr. Jones moved to move back “No Parking from Here to Corner” to signage property lines based on staff evaluations, seconded by Mr. Shafer. Motion approved by a 2-0 vote.

B. Lofton Circle Parking Restrictions

Chief Donahue provided a history of the requests for parking restrictions and recommend to staff that current legislature remain in effect. Chief Donahue discussed the challenges to maneuver EMS and Fire Department vehicles through the street if parking is available on both sides. Chief Donahue discussed the need for outriggers to stabilize the ladder truck and provided photograph of the ladder truck with extended outriggers parked on Lofton Circle to demonstrate the space required. Chief Donahue clarified that the request was to allow parking on both sides and that staff recommends that current legislation remain.

PUBLIC COMMENT:

Charles Craun  
224 Lofton Circle  
Delaware, Ohio 43015

Mr. Craun reported that for the past 12 years that there has never been a concern regarding which side residents parked on. Mr. Craun discussed

similar streets that allow parking on both sides.

Mr. Jones voiced his concern over the inconsistency to allow parking on both sides with same dimensions of the street.

Chairman Shafer stated his reluctance to make changes that is not agreeable to the Fire Chief.

Shane Meade  
242 Lofton Circle  
Delaware, Ohio 43015

Mr. Meade requested that the Fire Chief use the outriggers on driveways to allow for more room and to consider parking restriction times.

Mr. Jones recommend that residents present their request in front of Council for consideration but that at this time he recommends following the Fire Chiefs recommendations.

Lyndon Kline  
237 Lofton Circle  
Delaware, Ohio 43015

Mr. Kline requested that the current parking restrictions be removed and that residents can move vehicles in the event of an emergency. Chief Donahue explained the time delay this action could create.

C. East Lincoln Alley-one way request

Chief Pijanowski reviewed the request by Councilman Brush related to an automobile accident and explained that through the investigation the crash was due to an obstructed view related to a moving truck.

D. Delaware County Courthouse-request to eliminate parking, convert alley to one way

Mr. Ferrigno discussed potential plans to eliminate parking on Sandusky Street in front of the courthouse. A discussion was held regarding the consideration of eliminating parking is due to cosmetics or security. Mr. Ferrigno explained that request is not currently a formal request and that recommendation of Parking and Safety Committee can be provided to Planning Commission or request that applicant come before this Committee.

Chairman Shafer recommended that this be presented to Planning Commission and if there is a favorable condition by Planning Commission than there needs to be further discussion and review for the Parking and Safety Committee.

Chairman Shafer stated that eliminating parking in front of the courthouse should be for security reasons only.

E. Renaming US 23 Access Rd-Cheshire to Kingman Hill Drive

Mr. Ferrigno discussed and provided information on the road's easement access and provided location of the road and the five homes that are on the road. Mr. Ferrigno indicated that the Township and ODOT are in agreement to the changing of the road name, as well as, four out of the five homeowners. Mr. Ferrigno discussed the fifth homeowners concern that the city may rezone the road.

Mr. Ferrigno discussed the process of changing the street name with the post office. Mr. Ferrigno recommended that further discussions be held with the homeowner to address concerns.

**Motion:** Mr. Jones moved to table the renaming of US 23 Access Rd until the next Parking & Safety Committee meeting, seconded by Chairman Shafer. Motion approved with a 2-0 vote.

F. Renaming East Point Crossing to Public Works Way

Mr. Ferrigno discussed the benefit to the proposed name change to allow for easier identification of the Public Works Department. Mr. Ferrigno indicated that ODOT has no concerns with the proposed name change but that owner of the Stop-N-Go did voice opposition to the name change. Mr. Ferrigno read into the record a response from Stop-N-Go discussing that the street name should not be inclusive to one business that share the road.

**Motion:** Mr. Jones moved to table the renaming of East Point Crossing until the next Parking & Safety Committee meeting, seconded by Chairman Shafer. Motion approved with a 2-0 vote.

G. Traffic Calming Regulations-Proposed Modifications

Mr. Ferrigno discussed proposed modifications and explained changes to the public process for notification to affected residents. Mr. Ferrigno discussed the importance to use technology to increase public participation and awareness and to also ensure residents are receiving the correct information.

Chairman Shafer recommended that modifications be reviewed by the City Manager's office to determine outcome.

H. Downtown Parking ADA Adjustments

Ms. Ormeroid discussed the various locations of handicap stalls with

obstructions and the recommended required changes and relocated designations. Ms. Ormeroid proposed the need to swap spaces of handicap spaces to locations with no obstructions.

**Motion:** Mr. Jones moved that adjustments for downtown parking ADA adjustments are reviewed with staff and move forward with staff recommendations, seconded by Chairman Shafer. Motion approved by a 2-0 vote.

I. Parking restrictions on Bruce Rd

Chief Pijanowski reviewed the two parts of the request. The first request is to restrict parking on one side of Bruce Rd. The second request is to have a “No Parking” restriction sign to move back on Bruce Rd to allow for better line of sight. Chief Pijanowski reviewed current legislature that allows for parking on both sides of Bruce Rd.

PUBLIC COMMENT:

Teresa and Dale Wilgus  
241 Tudor Drive  
Delaware, Ohio 43015

Mr. Wilgus voiced his concern on trying to turn onto Hills Miller Road when a truck is parked near the corner. Mr. Wilgus stated that with street congestion this makes it a safety concern with kids playing in the road, as well as, with EMS vehicles having unobstructed access.

Alice Stover  
259 Tudor Drive  
Delaware, Ohio 43015

Ms. Stover voiced her concern over EMS access with street congestion.

Robert Smith  
247 Tudor Drive  
Delaware, Ohio 43015

Mr. Smith voiced his concern that congestion on street parking makes it difficult for snow removal by city vehicles.

Noah Stover  
259 Tudor Drive  
Delaware, Ohio 43015

Mr. Stover discussed need to reduce speed limit to 20 mph. Mr. Ferrigno discussed that 25 mph is the statutory speed limit by the Ohio Revised Code.

**Motion:** Mr. Jones moved that “No Parking” signage is relocated from north east corner on Bruce Rd & Hills Miller back to the first driveway, seconded by Chairman Shafer. Motion approved by a 2-0 vote.

**Motion:** Mr. Jones moved that “No Parking” signs are installed on the west side of Bruce Rd, seconded by Chairman Shafer. Motion approved by a 2-0 vote.

ITEM 6. COMMITTEE COMMENTS

Mr. Jones stated concerns over the patio seating of downtown businesses and obstructions around the patio make it difficult to use the sidewalks.

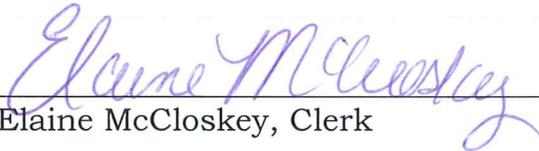
ITEM 7. ADJOURNMENT

**Motion:** Mr. Jones moved to adjourn the meeting. The Parking and Safety Committee meeting adjourned at 8:51 p.m.



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Kent Shafer, Chairman



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Elaine McCloskey, Clerk

**PARKS AND RECREATION ADVISORY BOARD  
MOTION SUMMARY  
August 18, 2015**

ITEM 1. Roll Call

Chairwoman Lash called the Parks and Recreation Advisory Board meeting to order at 7:00 p.m.

Members Present: Cassie Cunningham, Dianna Hibinger, Joshua Bricker, Nicole LaMar-Nelson, Celeste Smith, Councilmember Chris Jones, and Chairwoman Lash

Members Absent: Ms. German, Mr. Polites, Mr. Ratliff, and Vice-Chairwoman Jennifer Davis

City Staff Present: Stacy Davenport, Parks Superintendent

YMCA Staff Present: Jeremy Byers, Senior Director of Youth & Adult Sports and Roger Hanafin, Youth, Teen, & Family Director

**Motion to Excuse:** Councilman Jones moved to excuse Vice-Chairwoman Davis and Mr. Polites, Mr. Ratliff and Ms. German, seconded by Ms. LaMar-Nelson. Motion approved by a 7-0 vote.

ITEM 2. APPROVAL of the Motion Summary for the meeting held July 21, 2015 as recorded and transcribed.

**Motion:** Mr. Bricker moved to approve the Motion Summary for the meeting held July 21, 2015 as recorded and transcribed, seconded by Ms. Hibinger. Motion failed by a 5-0-2 (Smith, Jones). Minutes will be brought back to the next Board meeting for a vote.

ITEM 3. PUBLIC COMMENT

Public Participation:  
Kelly Bragg Health Educator  
Delaware General Health District  
146 W. Lincoln Avenue  
Delaware, Ohio

Ms. Bragg provided information regarding the placement of a three sided kiosk message center through grant funding at the Ross Street Park. Ms. Bragg discussed the need for city staff to assist in the installation. Mr. Davenport

informed the committee that staff had to concerns to the placement of the kiosk.

**Motion:** Mr. Jones moved for installation of a kiosk message center for Ross Street Park, seconded by Mr. Bricker. Motion approved by a 7-0 vote.

#### ITEM 4. UPDATE of YMCA Recreation Services

Mr. Byers stated that youth baseball season is officially over and that the YMCA is in the process of having equipment returned. Mr. Byers indicated that youth soccer registration is closed and that games are to begin August 29, 2015 with the use of approximately five soccer fields.

A discussion was held on Adult Programs offered through the YMCA including the Diabetes Prevention Program. Information was provided on the new Healthy Weight and Your Child Program, and that this program must be doctor recommended.

Mr. Hanafin provided information on the last movie at Mingo Park for August 21, 2015 as well as the upcoming Father/Daughter Golf Event.

Ms. LaMar-Nelson requested information on the advertisement for Flag Football. Mr. Byers discussed the use of Facebook, website use, and reminder emails for advertising for registration.

Chairwoman Lash asked why there was less Mother/Son events compared to Father/Daughter events. Mr. Hanafin indicated that there is higher turnout of parents volunteering for the Father/Daughter events and little turnout of parents volunteering for Mother/Son events.

#### ITEM5. UPDATE of Parks Activities

Mr. Davenport provided an update regarding Optimist Football Club and that the Club's plans to have games on Sundays. Mr. Davenport discussed solutions for field placement and availability.

Mr. Davenport provided an update on the tennis courts for Mingo Park and the paving work completed at Blue Limestone Park.

Mr. Davenport indicated that staff met with the YMCA to discuss upgrades to the Mingo Facility and looking at a list of upgrades to prioritize.

The Board was made aware that weekly progress meetings are held on Tuesdays in regards to the construction at Veteran's Park.

Mr. Davenport provided an update regarding the fencing at the Dog Park. Mr. Davenport spoke with Ms. Holly Kauf prior to the meeting to update her that

the fence company will be using a bottom rail and not be digging a trench in the placement of the fence. Mr. Davenport indicated that Ms. Kauf was supportive to the changes in the fence and was to notify members of the Dog Park Committee of the changes.

Information was provided on the new environmental friendly treatment of algae that was used at Smith Park.

Mr. Davenport indicated that the CIP was turned in to Council for review and that he attended a Council meeting to discuss the benefits of a Parks and Natural Resource Director position with City Council.

Mr. Davenport stated that AHP will be shutting down their factory on September 28, 2015 to allow for staff to volunteer at the Oak Grove Cemetery.

#### ITEM 6. STAFF COMMENTS

The Clerk introduced new member, Celeste Smith.

#### ITEM 7. MEMBERS COMMENTS

Councilman Jones informed Mr. Davenport that the nets for DYAA Soccer were torn.

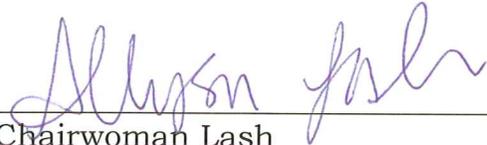
Councilman Jones requested information regarding a bike path connection of Lantern Chase. Mr. Davenport informed Councilman Jones that this connection is presented in the CIP.

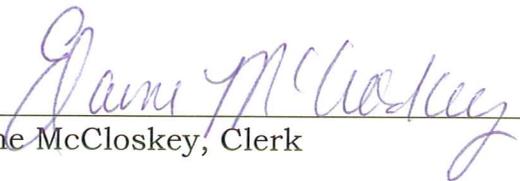
Ms. LaMar-Nelson indicated that she is unable to attend the Director Meetings at the YMCA the second Wednesday of each month at 12:30 p.m. due to a scheduling conflict and requested that board members look at their schedule to provide representation of the Parks and Recreation Advisory Board at this meeting.

Ms. Hibinger discussed her concern regarding Smith Park tennis courts being used as a place for dogs to run in a fenced area and that she notified those using the tennis courts for this purpose of the future site of the Dog Park.

ITEM 8. ADJOURNMENT

**Motion:** Chairwoman Lash moved to adjourn the Parks and Recreation Advisory Board meeting. The meeting adjourned at 8:00 p.m.

  
\_\_\_\_\_  
Chairwoman Lash

  
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Elaine McCloskey, Clerk

**PARKS AND RECREATION ADVISORY BOARD**  
**MOTION SUMMARY**  
**September 15, 2015**

ITEM 1. Roll Call

Chairwoman Lash called the meeting to order at 7:00 p.m.

Members Present: Cassie Cunningham, Matt Polites, Dianna Hibinger, Nicole LaMar, Celeste Smith, Vice-Chairwoman Jennifer Davis, and Chairwoman Allyson Lash.

Members Absent: Joshua Bricker, Julie German, and Councilmember Chris Jones

City Staff Present: Linda Mathews, Customer Service City Liaison, and Stacy Davenport, Parks Superintendent

YMCA Staff Present: Jeremy Byers, Associate Executive Director, Stacey Tighe, Assistant Aquatics Director, Amy Mosser, Active Older Adults Director.

ITEM 2. MOTION TO EXCUSE

**Motion:** Mr. Polites moved to excuse Ms. German, Mr. Bricker, and Councilmember Jones, seconded by Ms. LaMar. Motion approved by a 7-0 vote.

ITEM 3. APPROVAL of the Motion Summary for the meeting held July 21, 2015 as recorded and transcribed.

**Motion:** Mr. Polites moved to approve the Motion Summary for the meeting held July 21, 2015 as recorded and transcribed, seconded by Ms. Hibinger. Motion approved by a 6-0-1 (Davis) vote.

ITEM 4. APPROVAL of the Motion Summary for the meeting held August 18, 2015 as recorded and transcribed.

**Motion:** Ms. LaMar moved to approve the Motion Summary for the meeting held August 18, 2015 as recorded and transcribed, seconded by Ms. Hibinger. Motion failed by a 5-0-2 (Polites, Davis) vote. Consideration for approval of the Motion Summary for the meeting held August 18, 2015 will be the agenda for the October, 2015 Parks and Recreation Advisory Board meeting.

ITEM 5. PUBLIC COMMENTS

ITEM 6. UPDATE of YMCA Recreation Services

Mr. Byers provided an update on the Youth Programs and Classes including the Teen Leaders Club, and an update on the Youth Sports Programs. Mr. Byers provided information on registration for youth basketball and an update on the youth soccer program.

Mr. Byers presented information on the Adult Sports Programs and Classes, including information on fall softball and the Livestrong Program.

Mr. Byers updated the board on staffing changes at the Delaware YMCA and discussed need for volunteers at the scheduled Halloween Party.

Ms. Mosser discussed information on the Healthy Weight and your Child program and the Diabetes Prevention Program.

Ms. Tighe discussed information on the Jack Florence Poor and programs.

ITEM 7. UPDATE of Park Activities

Mr. Davenport provided an update on the Dog Park and provided pictures of the progress of the park.

Mr. Davenport provided an update on the Pickle Ball Courts at Blue Limestone Park and that staff is discussing concerns related to parking at the park.

Mr. Davenport informed the board that there are weekly meetings related to the progress of Veterans Park.

ITEM 8. STAFF COMMENTS

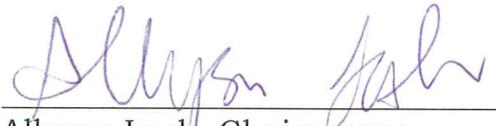
ITEM 9. MEMBER COMMENTS

Mr. Polites requested information regarding the potential location of the Iron Man competition. Mr. Byers informed the board that there were no current updates.

Ms. Lash discussed the need for volunteers for the Halloween Party.

ITEM 10. ADJOURNMENT

**Motion:** Mr. Polites moved to adjourn the Parks and Recreation meeting, seconded by Ms. Davis. The meeting adjourned at 7:42 p.m.



\_\_\_\_\_  
Allyson Lash, Chairwoman



\_\_\_\_\_  
Elaine McCloskey, Clerk

**PARKS AND RECREATION ADVISORY BOARD  
MOTION SUMMARY  
October 20, 2015**

ITEM 1. Roll Call

Chairwoman Lash called the meeting to order at 7:01 p.m.

Members Present: Joshua Bricker, Cassie Cunningham, Dianna Hibinger, Julie German, Celeste Smith, and Chairwoman Allyson Lash.

Members Absent: Nicole LaMar, Matt Polites, Vice-Chairwoman Jennifer Davis and Councilmember Chris Jones

City Staff Present: Linda Mathews, Customer Service City Liaison, Dan Whited, Public Service Group Director, and Stacy Davenport, Parks Superintendent

YMCA Staff Present: Jeremy Byers, Associate Executive Director.

Bike Way Task Force Consultant: Dan Negley

ITEM 2. MOTION TO EXCUSE

**Motion:** Mr. Bricker moved to excuse Ms. LaMar, Mr. Polites, Vice-Chairwoman Davis, and Councilmember Jones, seconded by Ms. Hibinger. Motion approved by a 6-0 vote.

ITEM 3. APPROVAL of the Motion Summary for the meeting held August 18, 2015 as recorded and transcribed.

**Motion:** Ms. Hibinger moved to approve the Motion Summary for the meeting held August 18, 2015 as recorded and transcribed, seconded by Ms. Smith. Motion failed by a 5-0-1 (German) vote. Minutes will be brought back to the next Board meeting for a vote.

ITEM 4. APPROVAL of the Motion Summary for the meeting held September 15, 2015 as recorded and transcribed.

**Motion:** Ms. Hibinger moved to approve the Motion Summary for the meeting held September 15, 2015 as recorded and transcribed, seconded by Ms. Cunningham. Motion failed by a 4-0-2 (Bricker, German) vote. Minutes will be brought back to the next Board meeting for a vote.

ITEM 5. PUBLIC COMMENTS

ITEM 6. UPDATE of YMCA Recreation Services

Mr. Byers provided an update on youth sports programs and adult sports programs.

Mr. Byers provided information on the October 24, 2015 Halloween Party at Mingo Park. Mr. Byers discussed the need for many volunteers for the program.

Discussion was held on the Santa's Helper program.

ITEM 7. UPDATE of Park Activities

Mr. Davenport discussed the Volunteer Day events at Oak Grove Cemetery by Domtar and the upcoming Make a Difference Day with Ohio Wesleyan University students.

Mr. Davenport provided an update on Veterans Park, the Dog Park, and Hidden Valley Golf Course. Information was provided to the Board regarding the upcoming planting of street trees.

Mr. Davenport discussed the upcoming installation of the greenhouse at 440 East William Street, and the benefits and utilization of the greenhouse.

ITEM 8. STAFF COMMENTS

Mr. Whited provided an update on the Bike Plan and introduced Mr. Dan Negley, as a consultant to the Bike Plan. Mr. Negley discussed priorities for connectors of the bike path throughout the city and surrounding areas. Mr. Whited discussed the need to look at grants for additional funding source.

Mr. Davenport and Mr. Whited discussed the Ironman triathlon that will be hosted in the City of Delaware, August 21, 2016.

ITEM 9. MEMBER COMMENTS

Chairwoman Lash discussed the need for the city to provide updates and progress of projects on city website and social media to increase awareness.

Mr. Bricker recommended that the city and OWU look at available facilities that are available to determine possible other events that can be hosted in the city.

Ms. Hibinger discussed the Kids on Campus event that will take place in February and provide a free tennis clinic to children.

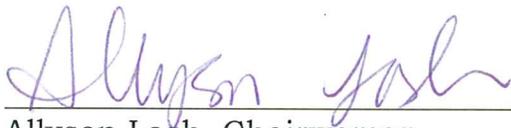
Mr. Negley provided updates on bike trail connectors in surrounding

communities.

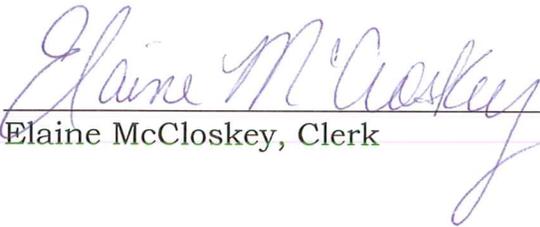
Ms. Cunningham requested information on the potential lighting for field three at Smith Park. Mr. Davenport stated there are no current plans and discussion was held on the declining participation in softball. Mr. Byers discussed that the YMCA was looking at adapting the softball schedule to increase participation.

ITEM 10. ADJOURNMENT

**Motion:** Mr. Bricker moved to adjourn the Parks and Recreation meeting, seconded by Ms. Hibinger. The meeting adjourned at 7:40 p.m.



Allyson Lash, Chairwoman



Elaine McCloskey, Clerk

**SHADE TREE COMMISSION**  
**August 25, 2015**  
**MOTION SUMMARY**

ITEM 1. Roll Call

Vice-Chairwoman Wright called the meeting to order at 7:01 p.m.

Members Present: Jim Buck, Tom Glissman, Paul Olen, Tom Wolber, Councilmember Joe DiGenova, and Vice-Chairwoman Susan Wright.

Members Absent: Juliette Rike, Brenda Hendricks, Amanda Mowry, and Chairman Dave Carey.

Staff Present: Stacy Davenport (Parks Superintendent)

**Motion to Excuse:** Councilman DiGenova moved to excuse Ms. Rike, Ms. Hendricks, Ms. Mowry and Chairman Carey, seconded by Mr. Wolber. Motion approved by a 6-0 vote.

ITEM 2. APPROVAL OF MOTION SUMMARY of Shade Tree Commission meeting of July 28, 2015 as recorded and transcribed.

**Motion:** Mr. Wolber moved to approve the Motion Summary for the July 28, 2015 meeting, seconded by Mr. Buck. Motion passed by a 6-0 vote.

ITEM 3. PUBLIC COMMENTS

ITEM 4. DISCUSSION: Approved Tree Plant List

Vice-Chairwoman Wright recommended that this discussion be held at the next Shade Tree meeting, to allow for input from Chairman Carey. Vice-Chairwoman Wright recommended that tree suggestions be emailed to both Chairman Carey and Mr. Richmond.

Mr. Davenport notified the Commission that there will not be a Shade Tree Commission meeting in September due to the Delaware County Fair.

ITEM 5. ARBORIST REPORT

Mr. Davenport reviewed the Arborist Report for August 2015. The commission was made aware that 6 trees were removed due to mortality and stop sign installation on Cobblestone Drive. Mr. Wolber notified the Commission that due to input from the Shade Tree one maple tree on Cobblestone was not cut down, but instead pruned to allow for visibility of the new stop sign.

Mr. Davenport reviewed tree maintenance for the month of August and informed the Commission that areas of interest included the North West Neighborhood and school zone areas.

Mr. Davenport updated the cost share program requests.

Vice-Chairwoman Wright discussed the potential tree planting at Shultz Elementary. Vice-Chairwoman Wright reviewed with the Commission that Shultz Elementary won the last poster contest, but that due to the upcoming construction they requested that the planting of the tree wait until construction was completed. Mr. Davenport recommended that the tree be planted in the spring.

Mr. Wolber requested information on the removal of two trees for the previous National Guard Building, and if the trees were reimbursed into the tree fund.

#### ITEM 6. STAFF COMMENTS

Mr. Davenport reminded the Commission that the September meeting was cancelled due to the Delaware County Fair.

Mr. Davenport informed the Commission that he presented before Council his recommendation for a Parks and Recreation Director position.

#### ITEM 7. MEMBER COMMENTS

Mr. Olen notified the Commission that he will be out of town for the October meeting.

Mr. Wolber presented information on soil compaction and preventing soil compaction on a construction site. Mr. Wolber recommended that this topic be added to the October agenda.

Mr. Olen discussed concern with soil compaction and that the decline in health can be shown through a longer period of time.

Mr. Glissman requested information on the undeveloped land in front of Buehlers. Mr. Davenport informed the Commission that the area is planned to have future development.

#### ITEM 8. PLAN REVIEWS

- A. The Preserve at Quail Pass Civil and Landscape Plans- Approved with recommend changes of Cleveland Select to Lilac.
- B. Delaware County Courthouse Site Development/Building Elevation- Informational only.

- C. Speedway Revising Landscaping Plan-Recommendation to relocate 4 Service Berry on Hills Miller entrance to other site of property and to substitute variety species where Black Cherry is currently included with these suggestions of Elm, Oak, American Linden, and Tulip Tree and final review by the Shade Tree Commission.

ITEM 9. ADJOURNMENT

**Motion:** Mr. Wolber motioned to adjourn the meeting, seconded by Mr. Buck. The Shade Tree Commission meeting adjourned at 7:51 p.m.

  
\_\_\_\_\_  
Chairman Carey

  
\_\_\_\_\_  
Clerk 10/27/15

**HISTORIC PRESERVATION COMMISSION  
MOTION SUMMARY  
October 28, 2015**

ITEM 1. Roll Call

Chairman Koch called the Historic Preservation Commission meeting to order at 7:01 p.m.

Members Present: James Kehoe, Erinn Nicley, Sherry Riviera, Councilman Chris Jones, Vice-Chairman Hatten, and Chairman Roger Koch

Members Absent: Joe Coleman

Staff Present: David Efland, Planning and Community Development Director and Dianne Guenther, Development Planner

**Motion to Excuse:** Vice-Chairman Hatten moved to excuse Mr. Coleman, seconded by Councilman Jones. Motion approved by a 6-0 vote.

ITEM 2. APPROVAL OF MOTION SUMMARY of the Historic Preservation Commission meeting held on September 30, 2015, as recorded and transcribed.

**Motion:** Vice-Chairman Hatten moved to approve the motion summary of the Historic Preservation Commission meeting held on September 30, 2015, as recorded and transcribed, seconded by Ms. Riviera. Motion approved by a 5-0-1 (Jones) vote.

ITEM 3. REGULAR BUSINESS

A. HPC 2015-1859: A request by James Manos for a Certificate of Appropriateness for a post-demolition plan for 14 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.

Ms. Guenther reviewed the approval for demolition of 14 West William Street by the Historic Preservation Commission and provided photos of existing building. Ms. Guenther reviewed the demolition redevelopment plan and discussed staff concerns of the new building blending into the current historic area. Ms. Guenther reviewed the proposed detached building setbacks and reviewed staff conditions.

APPLICANT:

Jim Manos  
5973 Macewen Court  
Dublin Ohio 43017

Mr. Manos discussed the design of the new building is based on the front façade of the original building from historic photographs from 1890's. Mr. Manos discussed the possibility of having the historic sign that was stolen replicated and have the overhead pole the sign was attached to remain. Mr. Efland discussed zoning requirements for abandoned signs.

Mr. Manos discussed the decision to not have the proposed building attached to neighboring buildings. A discussion was held on the proposed patio location at the front sidewalk line versus behind the new building and the proposed brick kneewall at the sidewalk line.

Vice-Chairman Hatten discussed the need to determine liquor control regulations and if the patio will need to be gated or not.

Chairman Koch voiced a concern over the safety of the three feet corridor on each side of the building to the parking lot.

Mr. Manos discussed the desire to have a side corridor for a side entrance on the new building to allow for food deliveries to patrons.

PUBLIC PARTICIPATION:

David DiStefano  
12 West William Street  
Delaware, Ohio

Ron Criswell  
12 West William Street  
Delaware, Ohio 43015

Mr. DiStefano voiced no concerns regarding the development plan. Mr. Criswell discussed the economic benefit of having business activity in the area rather than a vacant lot.

Mr. Nicley discussed the potential to shift the building to one side to allow for a wider corridor and partial continuous streetwall. Mr. Manos was agreeable to potential suggestions and changes, but preferred a detached building.

Mr. Manos discussed potential materials to be used on the building façade.

A discussion was held on the unattached building concept. Vice-Chairman Hatten and Chairman Koch discussed the preference for a continuous streetscape.

**Motion:** Councilman Jones moved to approve HPC 2015-1859, along with all staff recommendations and conditions, seconded by Ms. Riviera. Motion failed with a 3-3 (Nicley, Hatten, Koch) vote.

Mr. Efland discussed the applicant's right to request an appeal to City Council and that this request must be completed within thirty days.

A discussion was held on changing the proposed plan to have an attached front brick kneewall at the sidewalk line with attached new building façade for a continuous streetscape appearance with the exception of a cut out in the rear of the building to allow for the requested side entrance. Mr. Manos was agreeable to the recommended changes.

**Motion:** Mr. Nicley moved to approve HPC 2015-1859 with the addition of all city staff recommendations and conditions, along with the inclusion of condition number six that will read "the building will have an extension of 3 feet to the west and 3 feet to the east of the property with the exception of a an approximate 10 foot cut out of corridor to the east elevation of the rear of the building", seconded by Vice-Chairman Hatten. Motion approved by a 6-0 vote.

B. HPC 2015-1768: A request by 12 WEST Restaurant for a Certificate of Appropriateness for a temporary exterior sidewalk entrance vestibule for 12 West William Street which is zoned B-2 (Central Business District) and located in the Transitional Sub-District of the Downtown Historic District Overlay.

Ms. Guenther reviewed the zoning map and aerial photographs. Ms. Guenther provided research information received from communities that allow vestibules, as well as feedback from state-level historic agencies. A discussion was held on the use of the vestibule in the public right of way on a one year temporary trial period and reevaluate then for future use.

Mr. Efland read into the record all staff recommendations and conditions. Mr. Efland discussed the condition that approves the vestibule, but allows for this approval to be revocable at any time.

APPLICANTS:

David DiStefano  
12 West William Street  
Delaware, Ohio

Ron Criswell  
12 West William Street  
Delaware, Ohio 43015

Mr. DiStefano voiced his understanding of all conditions and staff recommendations.

Mr. Criswell and Mr. DiStefano voiced their understanding and agreement that they will be using their finances to fund the vestibule and that staff has the ability to revoke the approval of the vestibule.

**Motion:** Mr. Nicley moved to approve HPC 2015-1768, along with all staff recommendations and conditions, seconded by Ms. Riviera. Motion approved by a 6-0 vote.

ITEM 4. COMMISSION MEMBER COMMENTS AND DISCUSSION

Chairman Koch voiced his concern over two vinyl sidewalk decals used in front of Amato's. Mr. Efland discussed the potential violation of misusing public property and will investigate the concern.

Chairman Koch voiced his concern over the railing design for the outside patio at The Hamburger Inn. Mr. Efland to discuss the design with the owner.

ITEM 5. NEXT REGULAR MEETING: November 18, 2015 (Meeting date changed due to holiday)

ITEM 6. ADJOURNMENT

**Motion:** Mr. Nicley moved to adjourn the meeting, seconded by Councilman Jones. The Historic Preservation Commission meeting adjourned at 9:23 p.m.

  
\_\_\_\_\_  
Roger Koch, Chairman

  
\_\_\_\_\_  
Elaine McCloskey, Clerk



## Delaware Police Department Liquor Permit Report

<b>DPD Report Number</b> L-15-7		<b>Investigating Officer</b> Sergeant Mike Bolen	
<b>Applicant (Primary Shareholder)</b> Thom Ibinson		<b>Company Name (LLC)</b> IC of Ohio LLC	
<b>Common Name</b> Shorty's Casual Cuisine		<b>Address</b> 554 W. Central Avenue Delaware, Ohio 43015	
<b>Applicant Phone Number</b> 740-362-5555		<b>Applicant E-Mail Address: None Provided</b>	
<input checked="" type="checkbox"/> <b>Existing Business</b> <input type="checkbox"/> <b>New Business</b> (Supplement Attached)	<b>Type of Business</b> Restaurant (Individually Owned)	<b>Notification Type</b> Transfer	<b>Date of Report</b> November 17, 2015
<b>Permit Type</b> <input type="checkbox"/> C1/C2X Beer only in original sealed container for carry out only. <input type="checkbox"/> C2 Wine and mixed beverages in sealed containers for carry out. <input checked="" type="checkbox"/> D1/D2X Beer only for on premises consumption or in sealed containers for carry out. <input checked="" type="checkbox"/> D2 Wine and mixed beverages for on premises consumption or in sealed containers for carryout. <input type="checkbox"/> D4 Beer and any intoxicating liquor to members only, for on premises consumption only until 1:00am. <input type="checkbox"/> D5 Spirituous liquor for on premises consumption only, beer, wine and mixed beverages for on premises, or off premises in original sealed containers, until 2:30am. <input type="checkbox"/> Other			

### Location Information

<b>Churches, Libraries and or schools within 500 feet</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>School, church or library objection</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No Note: Objections are only permitted for <i>new permits</i> .
<b>Police Calls for Service in past 12 months: None</b>	<b>Number of Police Reports in past 12 months: None</b>
<b>Calls for Service excluding calls not related to the business in past 12 months: 21</b>	<b>Location is excessive drain on Police Resources:</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No
<b>Nuisance Abatement Pending</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Accessible by Law Enforcement</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Site compliance checked by Dept. of Commerce <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Private Club (Restricted Access Door)</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

### Applicant Information

<b>Records Checked</b> <input checked="" type="checkbox"/> Ohio Law Enforcement Gateway <input checked="" type="checkbox"/> Delaware Police Department Database	
<b>Applicant has an active warrant</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Record located for Liquor Law Violation</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Local Record on file</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>Criminal History Checked by Dept. of Commerce</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Problem History with DPD</b> <input type="checkbox"/> Yes (Supplement Attached) <input checked="" type="checkbox"/> No	<b>Contact made with Applicant</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

### Determination on Objection

<input checked="" type="checkbox"/> <b>The Delaware Police Department does not find a legislative basis for requesting a hearing to object to the issuance of a liquor permit for this business.</b>	<input type="checkbox"/> <b>The Delaware Police Department recommends requesting a hearing into the issuance of a liquor permit for this business, due to one or more of the following criteria for objection as set forth by the Ohio Revised Code.</b> <input type="checkbox"/> Site does not conform to local building, safety and health codes (excluding zoning). <input type="checkbox"/> Law enforcement or state agents do not have ready access to the premises where alcoholic beverages are being served. <input type="checkbox"/> Physical location causes a public nuisance. <input type="checkbox"/> Site has been officially classified as a nuisance according to State Law. <input type="checkbox"/> Conviction of a crime by the applicant that relates to operating a liquor establishment. <input type="checkbox"/> Past improper operation of a location with a liquor permit. <input type="checkbox"/> Misrepresentation of material fact on the application. <input type="checkbox"/> Addiction of the applicant to alcohol or narcotics. <input type="checkbox"/> Formal objection by specific types of other locations to which the site is in certain proximity. <input type="checkbox"/> Conviction of the applicant of food stamp or WIC fraud. (Supplement Attached)
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**Delaware Police Department  
Liquor Permit Report**

**Supplement**

**Supplement Type**

- New Business Description
- Police Department Objection
- Community Objection
- Other

Thom Ibinson is the new owner / permit applicant for the liquor permit transfer for Shorty's Casual Cuisine at 554 W. Central Ave. John Cordas is the business manager and will run the daily operations at the restaurant. According to Cordas, there will be no major changes to the operations or physical location other than they plan on operating on Sundays and may add deliveries. During the investigation, Ibinson and Cordas applied for an additional D6 permit for Sunday sales of alcohol. That request is being processed by Liquor Control and is not officially part of this investigation. There is no objection to this liquor transfer nor would there be any reason to object to the D6 application.

Det. Sgt. [Signature]  
Investigating Officer Signature      Date

Capt. Adhoun #5 11/19/15  
Supervisor Signature      Date

NOTICE TO LEGISLATIVE  
AUTHORITY

OHIO DIVISION OF LIQUOR CONTROL  
6606 TUSSING ROAD, P.O. BOX 4005  
REYNOLDSBURG, OHIO 43068-9005  
(614)644-2360 FAX(614)644-3166

TO

4120904		TRFO		IC OF OHIO LLC DBA SHORTYS 554 W CENTRAL AV DELAWARE OHIO 43015
02   01   2015		PERMIT NUMBER		
10   27   2015		ISSUE DATE		
D1   D2		FILING DATE		
21   022   B		PERMIT CLASSES		
21		022		F15032
TAX DISTRICT		RECEIPT NO.		

FROM 10/29/2015

0598085				BELLACINOS OF COLUMBUS INC DBA SHORTYS 554 W CENTRAL AV DELAWARE OHIO 43015
02   01   2015		PERMIT NUMBER		
10   27   2015		ISSUE DATE		
D1   D2		FILING DATE		
21   022		PERMIT CLASSES		
21		022		
TAX DISTRICT		RECEIPT NO.		



MAILED 10/29/2015

RESPONSES MUST BE POSTMARKED NO LATER THAN. 11/30/2015

**IMPORTANT NOTICE**

PLEASE COMPLETE AND RETURN THIS FORM TO THE DIVISION OF LIQUOR CONTROL  
WHETHER OR NOT THERE IS A REQUEST FOR A HEARING.

REFER TO THIS NUMBER IN ALL INQUIRIES **B TRFO 4120904**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

WE REQUEST A HEARING ON THE ADVISABILITY OF ISSUING THE PERMIT AND REQUEST THAT  
THE HEARING BE HELD  IN OUR COUNTY SEAT.  IN COLUMBUS.

WE DO NOT REQUEST A HEARING.

DID YOU MARK A BOX? IF NOT, THIS WILL BE CONSIDERED A LATE RESPONSE.

PLEASE SIGN BELOW AND MARK THE APPROPRIATE BOX INDICATING YOUR TITLE:

(Signature)

(Title)-  Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF DELAWARE CITY COUNCIL  
1 SOUTH SANDUSKY ST  
DELAWARE OHIO 43015

LLC / PARTNERSHIP CROSS REFERENCE  
DISPLAY

PGECC

4120904 PERMIT NBR  
IC OF OHIO LLC  
DBA SHORTYS  
554 W CENTRAL AV  
DELAWARE OHIO 43015

\*\*\*\*\*

THOM IBINSON

10/27/2015 ACTIVE

PRESIDENT

MNMB5%V5%M

PA2-KEY = END SESSION, CLEAR-KEY = END OPTION, ENTER-KEY = TO CONTINUE



Delaware County GIS  
George Kaitza, County Auditor  
Robert Parsons, GIS Director



Select Property Search

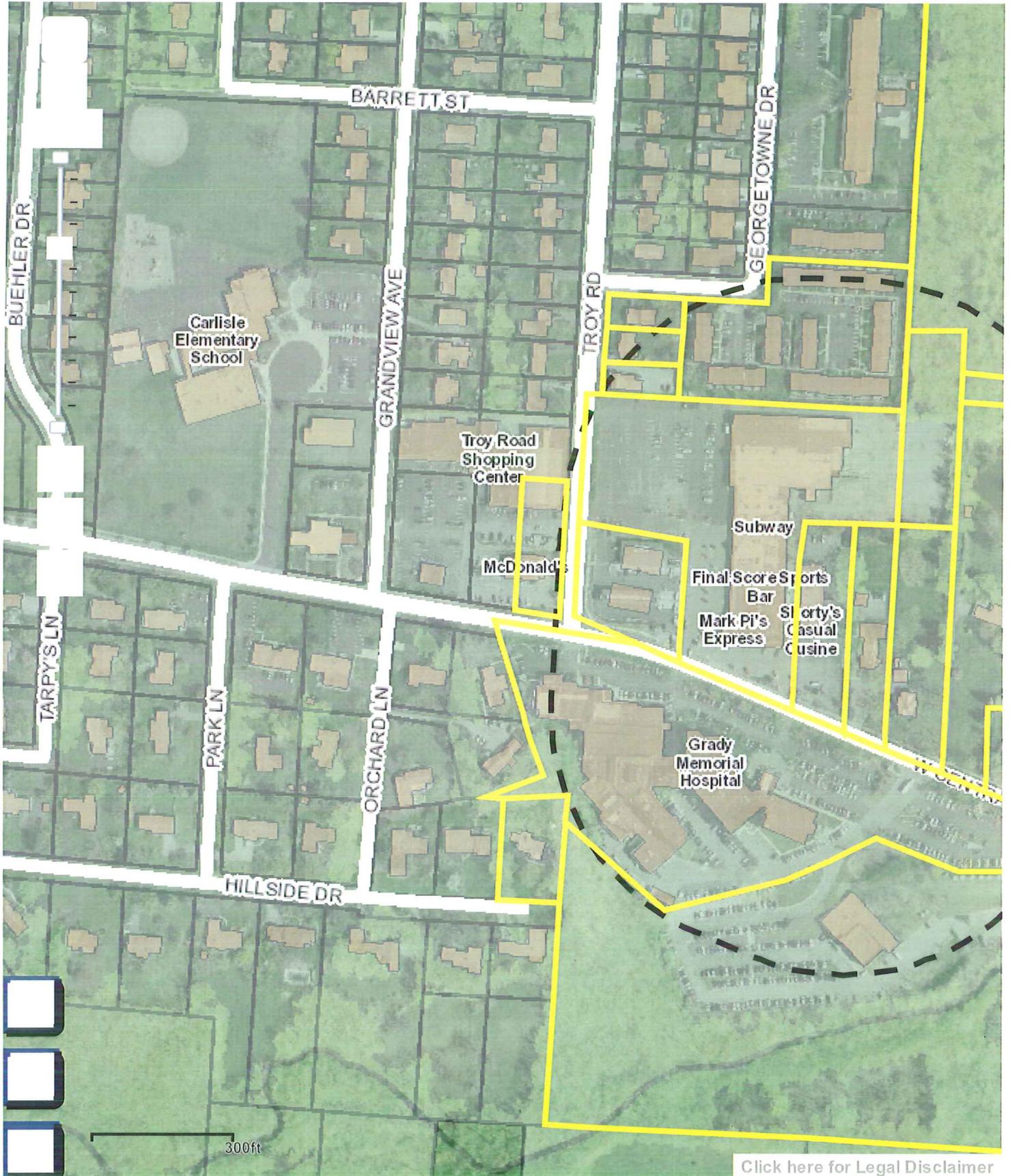
Advanced Search Refresh

Intersection Search Maps

Printing

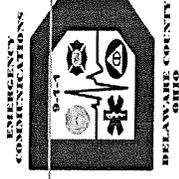
Links

Help



[Click here for Legal Disclaimer](#)

# Delaware County Emergency Communications



## DISPATCH CLOSED INCIDENT LIST

Printed On: 11/05/2015 11:04 AM

Date Range From: 78109 Through: 78474

C Incident No.	Date	Time	Nature	Common Name	Address
<input type="checkbox"/> 15-00117920	10/20/2015	14:00:38	Civil Paper	LIBERTY COINS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00116454	10/16/2015	19:36:58	Civil Paper	SHORTY'S RESTURANT	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00115854	10/15/2015	12:30:13	Civil Paper	LIBERTY COINS	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00110779	10/02/2015	14:11:14	Domestic	AREA OF SHORTY'S RESTURAN	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00110585	10/01/2015	23:27:58	Traffic Stop	SHORTY'S RESTURANT	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00106032	09/20/2015	22:08:02	Traffic Stop	PEPPERMINT PLAZA	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00071032	06/29/2015	12:29:32	Auto Accident-Non Injury	LIBERTY COINS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00059789	06/02/2015	02:35:00	Suspicious Person	PEPPERMINT PLAZA	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00059503	06/01/2015	10:01:07	Vandalism	PERFECT HARMONY FITNESS /	554 W CENTRAL AVE STE 4 DELAWARE
<input type="checkbox"/> 15-00052995	05/17/2015	01:04:04	Suspicious Activity	DELAWARE FINANCIAL PLANII	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00052720	05/16/2015	13:00:40	Vandalism	DELAWARE FINANCIAL PLANII	554 W CENTRAL AVE STE A DELAWARE
<input type="checkbox"/> 15-00049316	05/08/2015	11:42:12	Follow-Up/Investigation	SHORTY'S RESTURANT	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 15-00041846	04/20/2015	13:40:39	Trash Dumping	SHORTYS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00035098	04/04/2015	02:23:39	Burglar Alarm	MARCOR	554 W CENTRAL AVE STE 5 DELAWARE
<input type="checkbox"/> 15-00033936	04/01/2015	05:25:07	Duplicate Call	LIBERTY COINS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00033935	04/01/2015	05:20:57	Burglar Alarm	LIBERTY COINS	554 W CENTRAL AVE STE 2 DELAWARE
<input type="checkbox"/> 15-00031531	03/26/2015	06:12:31	Burglar Alarm	LIBERTY COINS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00027441	03/15/2015	17:24:58	Traffic Stop	DELAWARE MMA AND FITNESS	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00004594	01/14/2015	02:57:20	Business / House Check	PEPPERMINT PLAZA	554 W CENTRAL AVE DELAWARE
<input type="checkbox"/> 15-00001366	01/04/2015	22:10:40	Suspicious Vehicle	SHORTY'S RESTURANT	554 W CENTRAL AVE STE 1 DELAWARE
<input type="checkbox"/> 14-00132129	11/25/2014	10:38:15	Panic/Duress Alarm	LIBERTY COINS	554 W CENTRAL AVE STE 2 DELAWARE

Total calls: 21



## FACT SHEET

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AGENDA ITEM NO: 9

DATE: 11/23/15

ORDINANCE NO:

RESOLUTION NO: 15-54

READING: FIRST

PUBLIC HEARING: NO

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Darren Shulman, City Attorney

---

**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

A RESOLUTION ACCEPTING/REJECTING THE RECOMMENDATIONS ON UNRESOLVED ISSUES PERTAINING TO THE MODIFICATION OF THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE IAFF AND THE CITY OF DELAWARE.

**BACKGROUND:**

The City and the IAFF went to Fact-finding on the labor contract. The Factfinder issued her report and recommendations on November 19. Both parties have seven days to accept or reject the recommendations. If either party rejects the recommendations the contract proceeds to binding arbitration. If Council rejects the report staff and the Union would meet to attempt to negotiate a deal prior to arbitration.

**REASON WHY LEGISLATION IS NEEDED:**

A vote to accept or reject is required by State Law within seven days of the report.

A Yea vote would accept the report and a Nay vote would reject the report and move to arbitration.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

Accepting the report would have fiscal impact based on the recommendations in the report.

**POLICY CHANGES:**

Accepting the report would significantly change how promotions are handled in the fire department.

**PRESENTER(S):**

Darren Shulman, City Attorney

**RECOMMENDATION:**

**ATTACHMENT(S)**





## FACT SHEET

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AGENDA ITEM NO: 10

DATE: 11/23/15

ORDINANCE NO: 15-112

RESOLUTION NO:

READING: SECOND

PUBLIC HEARING: YES  
November 23, 2015 at 7:30 p.m.

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TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: Dean Stelzer, Finance Director

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE ADDING A NEW CHAPTER 192 TO THE CODIFIED ORDINANCES OF THE CITY OF DELAWARE REGARDING MUNICIPAL INCOME TAX.

**BACKGROUND:**

This new tax ordinance incorporates the required changes established by the State in HB5. The ordinance is developed using a sample ordinance prepared on behalf of the Ohio Municipal League. The new ordinance will apply to future tax years. As a result, the existing municipal income tax chapter must also remain in place until the statute of limitations for tax year 2015 expires.

**UPDATE:**

An amendment to Section 191.01 has been added to sunset the existing tax code after the statute of limitations. Also, added was an emergency clause noting the effective date.

**REASON WHY LEGISLATION IS NEEDED:**

These changes are required by the State.

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

**POLICY CHANGES:**

**PRESENTER(S):**

Dean Stelzer, Finance Director

**RECOMMENDATION:**

Approval at third reading

**ATTACHMENT(S)**

ORDINANCE NO. 15-112

AN ORDINANCE ADDING A NEW CHAPTER 192 TO  
THE CODIFIED ORDINANCES OF THE CITY OF  
DELAWARE REGARDING MUNICIPAL INCOME TAX,  
AND DECLARING AN EMERGENCY.

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

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a 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 Delaware, 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; and

WHEREAS, The existing Chapter 191 Income Tax of the City of Delaware will remain in force and be applicable to tax returns required for tax years ending on or prior to December 31, 2015; and

WHEREAS, a new Chapter 192 Municipal Income Tax incorporating the State mandated changes will be established and applicable to tax returns required for tax years beginning on and after January 1, 2016.

NOW THEREFORE, BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That Chapter 192 of the Codified Ordinances be established to read as set forth in the document entitled "Chapter 192, Municipal Income Tax" attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. That this Ordinance shall take effect and be in force from and after January 1, 2016.

SECTION 3. This Council finds and determines that all formal actions of this Council and any of its committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council, and that all deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, all in compliance with the law including Section 121.22 of the Ohio Revised Code.

SECTION 4. Existing Section 191.01 shall be amended to read as follows:

191.01. - Purpose.

To provide funds for the purposes of paying the costs of providing general Municipal services, including but not limited to providing fire protection, suppression and emergency medical services, and recreation facilities, and capital improvements related thereto, and the payment of securities issued therefor, there shall be levied a tax on the City taxable income, as hereinafter defined of all businesses, professions or other activities conducted by the residents of the City; on the City taxable income of all businesses, professions or other activities conducted in the City by nonresidents and on the City taxable income of all corporations doing business in the City; and further, requiring the filing of returns and the furnishing of information by employers and all those subject to such tax; and further, imposing on employers the duty of collecting the tax at the source and paying the same to the City; and further, providing for the administration, collection and enforcement of such tax; and further, declaring violation thereof to be a misdemeanor and imposing penalties therefor as hereinafter set forth under this chapter; and further, permitting the adjustment for municipal income taxes paid by individual taxpayers to other municipalities. **THIS CHAPTER SHALL SUNSET EFFECTIVE JANUARY 1, 2024.**

SECTION 5. EMERGENCY CLAUSE: That this ordinance is hereby declared to be an emergency measure necessary to provide for the public peace, safety, health and welfare of the City and for the further reason to comply with the State of Ohio imposed deadline for the effective date of these required changes, and as such will be in full force and effect January 1, 2016.

VOTE ON RULE SUSPENSION:

YEAS\_\_\_NAYS\_\_\_  
ABSTAIN \_\_\_

VOTE ON EMERGENCY CLAUSE:

YEAS\_\_\_ NAYS\_\_\_  
ABSTAIN \_\_\_

PASSED: \_\_\_\_\_, 2015

YEAS\_\_\_ NAYS\_\_\_  
ABSTAIN \_\_\_

ATTEST: \_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
MAYOR

# **CHAPTER 192**

## **Municipal Income Tax**

Effective January 1, 2016

For taxable years beginning with taxable year 2016

<b>192.01</b>	<b>AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE</b>
192.011	AUTHORITY TO LEVY TAX
192.012	PURPOSES OF TAX; RATE
192.013	IMPOSITION OF TAX
192.014	ALLOCATION OF FUNDS
192.015	STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX
<b>192.02</b>	<b>EFFECTIVE DATE</b>
<b>192.03</b>	<b>DEFINITIONS</b>
<b>192.04</b>	<b>INCOME SUBJECT TO TAX FOR INDIVIDUALS</b>
192.041	DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS
192.042	DOMICILE
<b>192.05</b>	<b>COLLECTION AT SOURCE</b>
192.051	COLLECTION AT SOURCE; WITHHOLDING FROM WAGES
192.052	COLLECTION AT SOURCE; OCCASIONAL ENTRANT
<b>192.06</b>	<b>INCOME SUBJECT TO NET PROFIT TAX</b>
192.061	DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS
192.062	NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT
192.063	CONSOLIDATED FEDERAL INCOME TAX RETURN
<b>192.07</b>	<b>DECLARATION OF ESTIMATED TAX</b>
<b>192.08</b>	<b>CREDIT FOR TAX PAID</b>
192.081	CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY
192.084	CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND
<b>192.09</b>	<b>ANNUAL RETURN</b>
192.091	RETURN AND PAYMENT OF TAX
192.094	EXTENSION OF TIME TO FILE
192.095	AMENDED RETURNS
192.096	REFUNDS

<b>192.10</b>	<b>PENALTY, INTEREST, FEES AND CHARGES</b>
<b>192.11</b>	<b>AUDIT</b>
<b>192.13</b>	<b>AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR</b>
	192.131    DUTIES OF THE TAX ADMINISTRATOR
	192.133    INVESTIGATIVE POWER OF THE TAX ADMINISTRATOR;
<b>192.14</b>	<b>CONFIDENTIALITY</b>
<b>192.17</b>	<b>ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY</b>
<b>192.18</b>	<b>LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW</b>
<b>192.19</b>	<b>ACTIONS TO RECOVER; STATUTE OF LIMITATIONS</b>
<b>192.21</b>	<b>PERMANENT TAX ADVISORY COMMITTEE</b>
<b>192.22</b>	<b>RETURNS BY LANDLORDS, CONDOMINIUM ASSOCIATIONS AND OTHER ORGANIZATIONS.</b>
<b>192.97</b>	<b>COLLECTION OF TAX AFTER TERMINATION OF CHAPTER</b>
<b>192.98</b>	<b>SAVINGS CLAUSE</b>
<b>192.99</b>	<b>VIOLATIONS - PENALTY</b>

## **192.01 AUTHORITY TO LEVY TAX; PURPOSES OF TAX; RATE**

### **192.011 AUTHORITY TO LEVY TAX**

(A) The tax on income and the withholding tax established by this Chapter 192 are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax on income and the withholding tax established by this Chapter 192 are deemed to be levied in accordance with, and to be consistent with, the provisions and limitations of Ohio Revised Code 718 (ORC 718). This Chapter is deemed to incorporate the provisions of ORC 718.

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

*(Source: ORC 718.04)*

### **192.012 PURPOSES OF TAX**

To provide funds for the purposes of paying the costs of providing general Municipal services, including but not limited to providing fire protection, suppression and emergency medical services, and recreation facilities, and capital improvements related thereto, and the payment of securities issued therefor, there shall be levied a tax on the City taxable income, as hereinafter defined of all businesses, professions or other activities conducted by the residents of the City; on the City taxable income of all businesses, professions or other activities conducted in the City by nonresidents and on the City taxable income of all corporations doing business in the City; and further, requiring the filing of returns and the furnishing of information by employers and all those subject to such tax; and further, imposing on employers the duty of collecting the tax at the source and paying the same to the City; and further, providing for the administration, collection and enforcement of such tax; and further, declaring violation thereof to be a misdemeanor and imposing penalties therefor as hereinafter set forth under this chapter; and further, permitting the adjustment for municipal income taxes paid by individual taxpayers to other municipalities.

(Ord. 08-29. Passed 4-28-08.)

*(Source: ORC 718.04)*

### **192.013 IMPOSITION OF TAX**

(a) Subject to the provisions of Section 192.081, an annual tax for the purposes specified in Section 192.012, shall be imposed on or after January 1, 2011 at the rate of one and eighty-five one hundredths percent (1.85%) per annum for the period beginning January 1, 2011, and ending on December 31 in the calendar year in which all securities issued for the purpose set forth in Section 191.14(b) and 192.014(b) are retired, and thereafter at the rate of one and seven tenths percent (1.7%), upon the following:

- (1) Resident individuals. On municipal taxable income of residents during the effective period of this chapter.
- (2) Nonresident individuals. On municipal taxable income of nonresidents for work done or services performed in the City, during the effective period of this chapter.
- (3) Resident business. On municipal taxable income attributable to the City during the effective period of this chapter of all resident corporations, associations, unincorporated businesses, professions or other entities, as derived from the sales made, work done or services performed or rendered, or business or other activities conducted in the City.
- (4) Nonresident business.

- A. On municipal taxable income attributable to the City during the effective period of this chapter, of all nonresident corporations, associations, unincorporated businesses, professions or other entities, as derived from sales made, work done or services performed or rendered or business or other activities conducted in the City, whether or not such association or unincorporated entity has an office or has a place of business in the City.
- B. On a resident partner's or owner's share of municipal taxable income derived during the effective period of this chapter, of a nonresident association or other unincorporated entity not attributable to the City and not levied against such association or other unincorporated entity.

**192.014 ALLOCATION OF FUNDS**

The funds collected under the provisions of this chapter shall be allocated in such manner as provided by ordinances adopted by Council, with the following exceptions:

- (a) An amount equal to seven-tenths of one percent (0.7%) shall be paid into the Fire/EMS Income Tax Fund and such proceeds shall be used solely for fire protection, suppression and emergency medical services.
- (b) An amount equal to fifteen one-hundredths of one percent (0.15%) shall be allocated solely for the purpose of paying the costs of improving the municipal recreation facilities, including construction of a recreation center to provide fitness, track, swimming, and indoor and outdoor multi-purpose facilities, and athletic fields, and the construction, renovation and improvement of other municipal recreation facilities, including the provision of furnishing and equipment for the center and all of such other facilities, and acquiring related interests in real property and otherwise improving the same, together with all necessary appurtenances thereto and paying the debt service charges and related costs of securities issued to pay the costs of the center and such other facilities, and shall be placed in a special fund or funds and used only for that purpose, all until December 31 in the calendar year in which all securities issued for the purpose set forth in this Section 192.013(b) are retired.  
(Ord. 08-29. Passed 4-28-08.)

**192.015 STATEMENT OF PROCEDURAL HISTORY; STATE MANDATED CHANGES TO MUNICIPAL INCOME TAX**

- (A) Significant and wide-ranging amendments to ORC 718 were enacted by Am Sub HB 5, passed by the 130<sup>th</sup> General Assembly, and signed by Governor Kasich on December 19, 2014, and H.B. 5 required municipal corporations to conform to and adopt the provisions of ORC 718 in order to have the authority to impose, enforce, administer and collect a municipal income tax.
- (B) As mandated by H.B. 5, municipal income tax Ordinance 2015-XX, effective January 1, 2016, comprehensively amends Chapter 191 in accordance with the provisions of ORC 718 to allow the Municipality to continue the income tax and withholding tax administration and collection efforts on behalf of the Municipality.

## 192.02 EFFECTIVE DATE

(A) Ordinance 2015-XX, effective January 1, 2016, and corresponding changes to ORC 718, apply to municipal taxable years beginning on or after January 1, 2016. All provisions of this Chapter 192 apply to taxable years beginning 2016 and succeeding taxable years.

(B) Ordinance 2015-XX does not repeal the existing sections of Chapter 191 for any taxable year prior to 2016, but rather amends Chapter 191 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.

*(Source: Uncodified Section 2 of Am Sub HB 5, passed Dec 2014; ORC 718.04)*

## 192.03 DEFINITIONS

Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

For purposes of this Section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

As used in this chapter:

(A) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (W)(4) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

(4) (a) Except as provided in division (A)(4)(b) of this section, deduct income and gain included in federal taxable income to the extent the income and gain directly relate to the sale, exchange, or other disposition of an asset described in section 1221 or 1231 of the Internal Revenue Code;

(b) Division (A)(4)(a) of this section does not apply to the extent the income or gain is income or gain described in section 1245 or 1250 of the Internal Revenue Code.

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

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

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

(8) (a) Except as limited by divisions (A)(8)(b), (c) and (d) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.

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

(b) No person shall use the deduction allowed by division (A)(8)(a) of this section to offset qualifying wages.

(c) (i) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (A)(8)(a) of this section.

(ii) For taxable years beginning in 2023 or thereafter, a person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (A)(8)(a) of this section.

(d) Any pre-2017 net operating loss carryforward deduction that is available must be utilized before a taxpayer may deduct any amount pursuant to division (A)(8) of this section.

(e) Nothing in division (A)(8)(c)(i) of this section precludes a person from carrying forward, for use with respect to any return filed for a taxable year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (A)(8)(c)(i) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (A)(8)(c)(i) of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (A)(8)(c)(i) of this section shall apply to the amount carried forward.

(9) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 192.063 of this Chapter.

(10) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (E)(3)(b) of Section 192.063 of this Chapter.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (UU)(2) of this section, is not a publicly traded partnership that has made the election described in division (W)(4) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of

capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

- (B) (1) **"ASSESSMENT"** means any of the following:
- (a) 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;
  - (b) A full or partial denial of a refund request issued under Section 192.096 (B)(2) of this Chapter;
  - (c) A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 192.062(B)(2) of this Chapter; or
  - (d) A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 192.062(B)(3) of this Chapter.
  - (e) For purposes of division (B)(1)(a), (b), (c) and (d) 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 192.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.
- (2) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 192.096 (B)(3) of this Chapter, a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (B)(1) of this section.
- (C) **"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.
- (D) **"BOARD OF REVIEW"** has same meaning as "Local Board of Tax Review".
- (E) **"CALENDAR QUARTER"** means the three-month period ending on the last day of March, June, September, or December.
- (F) **"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.
- (G) **"CITY"** means the City of Delaware.
- (H) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.
- (I) **"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.
- (J) **"DOMICILE"** means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return.
- (K) **"EXEMPT INCOME"** means all of the following:
- (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 (K)(2)(b) 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 (K)(3) 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 (K)(9) 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 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 (HH) 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.

- (16) (a) Except as provided in divisions (K)(16)(b), (c), and (d) of this section, qualifying wages described in division (B)(1) or (E) of Section 192.052 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 (K)(16)(a) 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 (K)(16)(a) of this section does not apply to qualifying wages that an employer elects to withhold under division (D)(2) of Section 192.052 of this Chapter
- (d) The exemption provided in division (K)(16)(a) of this section does not apply to qualifying wages if both of the following conditions apply:
- (i) For qualifying wages described in division (B)(1) of Section 192.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employee's principal place of work is situated, or, for qualifying wages described in division (E) of Section 192.052 of this Chapter, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;
  - (ii) The employee receives a refund of the tax described in division (K)(16)(d)(i) of this section on the basis of the employee not performing services in that municipal corporation.
- (17) (a) Except as provided in division (K)(17)(b) or (c) 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 (K)(17)(a) of this section does not apply under either of the following circumstances:
- (i) The individual's base of operation is located in the Municipality.
  - (ii) 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 (K)(17)(b)(ii) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 192.052 of this Chapter.
- (c) Compensation to which division (K)(17) 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.
- (d) For purposes of division (K)(17) 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 (K) 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.

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

(M) **"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.

(N) **"INCOME"** means the following:

(1) (a) 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 (W)(4) of this section.

(b) For the purposes of division (N)(1)(a) of this section:

(i) 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 (N)(1)(d) of this section;

(ii) 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 (N)(1)(b) 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.

(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.

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

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

(4) 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 192.081 of this Chapter.

(O) **"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.

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

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

(R) **"LOCAL BOARD OF TAX REVIEW"** and **"BOARD OF TAX REVIEW"** means the entity created under Section 192.18 of this Chapter..

(S) **"MUNICIPAL CORPORATION"** means, in general terms, a status conferred upon a local government unit, by state law giving the unit certain autonomous operating authority such as the power of taxation, power of eminent domain, police power and regulatory power, and includes a joint economic development district or joint economic development zone that levies an income tax under section 715.691, 715.70, 715.71, or 715.74 of the Ohio Revised Code.

(T) (1) **"MUNICIPAL TAXABLE INCOME"** means the following:

(a) 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 192.062 of this Chapter, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

(b) (i) 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 (T)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(ii) 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.

(c) 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 192.062 of this Chapter, then reduced as provided in division (T)(2) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the Municipality.

(2) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (T)(1)(b)(i) or (c) of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such

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

(U) **"MUNICIPALITY"** means the City of Delaware.

(V) **"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.

(W) (1) **"NET PROFIT"** for a person other than an individual means adjusted federal taxable income.

(2) **"NET PROFIT"** for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of this division, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (A)(8) of this section.

(3) For the purposes of this chapter, and notwithstanding division (W)(1) 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.

(4) (a) 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.

(b) 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 (W)(4)(c) 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.

(c) A publicly traded partnership that is treated as a partnership for federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this state may elect to be treated as a C corporation for municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing municipal income tax returns as a C corporation for municipal purposes under division (4)(d) of this section.

(d) 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 (4)(c) 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.

(e) 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 (4)(b) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(f) 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.

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

(Y) **"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.

(Z) **"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.

(AA) **"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.

(BB) **"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.

(CC) **"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.

(DD) **"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.

(EE) **"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

(FF) (1) **"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.

(2) 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.

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

(1) Deduct the following amounts:

(a) Any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.

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

(c) Any amount included in wages that is exempt income.

(2) Add the following amounts:

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

(b) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (HH)(2)(b) of this section applies only to those amounts constituting ordinary income.

(c) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (HH)(2)(c) of this section applies only to employee contributions and employee deferrals.

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

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

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

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

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

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

(iv) For any taxable year the amount has not otherwise been added to wages pursuant to either division (HH)(2) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

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

(1) 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;

(2) 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;

(3) 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 (II)(4) 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;

(4) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (II)(1) to (3) of this section have been met.

(JJ) **"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.

(KK) **"RESIDENT"** means an individual who is domiciled in the Municipality as determined under Section 192.042 of this Chapter.

(LL) **"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.

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

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

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

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

(QQ) **"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.

(RR) **"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:

- (1) A municipal corporation acting as the agent of another municipal corporation;
- (2) 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;
- (3) 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.

(SS) **"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 .

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

(UU) (1) **"TAXPAYER"** means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (UU)(2)(a) of this section, a disregarded entity.

- (2) (a) 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:
  - (i) The limited liability company's single member is also a limited liability company.

(ii) 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.

(iii) 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.

(iv) 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.

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

(b) For purposes of division (UU)(2)(a)(v) 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.

(VV) **"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.

*(Source: Most definitions can be found in ORC 718.01)*

## **192.04 INCOME SUBJECT TO TAX FOR INDIVIDUALS**

### **192.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS**

(A) "Municipal Taxable Income" for a resident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, reduced by allowable employee business expense deduction as found in division (T)(2) of Section 192.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 192.03 (N) of this Chapter.

(i) "Qualifying Wages" is defined in Section 192.03(HH).

(ii) "Net profit" is included in "income", and is defined in Section 192.03 (W) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (A)(8) of Section 192.03. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 192.062(E).

(iii) Section 192.03(N) provides the following: offsetting and net operating loss carryforward treatment in (N)(1)(b)(i); resident's distributive share of net profit from pass through entity treatment in (N)(1)(b)(ii); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (N)(1)(c); restriction of

amount of loss permitted to be carried forward for use by taxpayer in a subsequent taxable year in (N)(1)(d).

(iv) "Pass Through Entity" is defined in Section 192.03(AA).

- (b) "Exempt Income" is defined in Section 192.03 (K) of this Chapter.
- (c) Allowable employee business expense deduction is described in (T)(2) of Section 192.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 192.03 (FF) of this Chapter

(B) "Municipal Taxable Income" for a nonresident of the Municipality is calculated as follows:

(1) "Income" reduced by "Exempt Income" to the extent such exempt income is otherwise included in income, as applicable, apportioned or sitused to the Municipality as provided in Section 192.062 of this Chapter, reduced by allowable employee business expense deduction as found in (T)(2) of Section 192.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 192.03(N) of this Chapter.

(i) "Qualifying Wages" is defined in Section 192.03(HH).

(ii) "Net profit" is included in "income", and is defined in Section 192.03(W) of this Chapter. This section also provides that the net operating loss carryforward shall be calculated and deducted in the same manner as provided in division (A)(8) of Section 192.03. "Net profit" for a nonresident individual includes any net profit of the nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the nonresident.

(iii) "Pass Through Entity" is defined in Section 192.03(AA).

- (b) "Exempt Income" is defined in Section 192.03(K) of this Chapter.
- (c) "Apportioned or sitused to the Municipality as provided in Section 192.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual taxpayer from rental real estate is provided in Section 192.062(E).
- (d) "Allowable employee business expense deduction" as described in (T)(2) of Section 192.03 of this Chapter, is subject to the limitations provided in that section. For a nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the nonresident in the Municipality.
- (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 192.03(FF) of this Chapter.

## **192.042 DOMICILE**

(A) As used in this section:

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

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

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

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

- (1) The individual's domicile in other taxable years;
- (2) The location at which the individual is registered to vote;
- (3) The address on the individual's driver's license;
- (4) The location of real estate for which the individual claimed a property tax exemption or reduction allowed on the basis of the individual's residence or domicile;
- (5) The location and value of abodes owned or leased by the individual;
- (6) Declarations, written or oral, made by the individual regarding the individual's residency;
- (7) The primary location at which the individual is employed.
- (8) The location of educational institutions attended by the individual's dependents as defined in section 152 of the Internal Revenue Code, to the extent that tuition paid to such educational institution is based on the residency of the individual or the individual's spouse in the municipal corporation or state where the educational institution is located;

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

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

*(Source: ORC 718.012)*

## **192.05 COLLECTION AT SOURCE**

### **192.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES**

- (A) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 192.052 of this Chapter or division (D) or (F) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.
- (2) In addition to withholding the amounts required under division (A)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.
- (B) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:
- (a) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(b) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the fifteenth day of the month following the end of each calendar quarter.

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

(C) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator. A return filed by an employer, agent, or other payer under this division shall be accepted by the Municipality as the return required of an employee whose sole income subject to the tax under this chapter is the qualifying wages reported by the employee's employer, agent of an employer, or other payer, unless the Municipality requires all resident individual taxpayers to file a tax return under section 192.091 of this Chapter,

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

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

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

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

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

(H) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(I) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an

employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

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

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

(Source: ORC 718.03)

## **192.052 COLLECTION AT SOURCE; OCCASIONAL ENTRANT**

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

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

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

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

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

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

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

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

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

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

corporation" appears in that division.

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

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

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

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

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

(c) The employee is a resident of the Municipality and has requested that the employer withhold tax from the employee's qualifying wages as provided in section 192.051 of this Chapter.

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

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

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

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

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

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

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

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

- (D) (1) Except as provided in division (D)(2) of this section, if, during a calendar year, the number of days an employee spends performing personal services in a municipal corporation exceeds the twenty-day threshold described in division (B)(1) of this section, the employer shall withhold and remit tax to that municipal corporation for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in that municipal corporation.
- (2) An employer required to begin withholding tax for a municipal corporation under division (D)(1) of this section may elect to withhold tax for that municipal corporation for the first twenty days on which the employer paid qualifying wages to the employee for personal services performed in that municipal corporation.
- (3) If an employer makes the election described in division (D)(2) of this section, the taxes withheld and paid by such an employer during those first twenty days to the municipal corporation in which the employee's principal place of work is located are refundable to the employee.
- (E) Without regard to the number of days in a calendar year on which an employee performs personal services in any municipal corporation, an employer shall withhold municipal income tax on all of the employee's qualifying wages for a taxable year and remit that tax only to the municipal corporation in which the employer's fixed location is located if the employer qualifies as a small employer as defined in Section 192.03 of this Chapter. To determine whether an employer qualifies as a small employer for a taxable year, a Tax Administrator may require the employer to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.
- (F) Divisions (B)(1) and (D) of this section shall not apply to the extent that a Tax Administrator and an employer enter into an agreement regarding the manner in which the employer shall comply with the requirements of section 192.051 of this Chapter.
- (G) In the case of a person performing personal services at a petroleum refinery located in a municipal corporation that imposes a tax on income, an employer is not required to withhold municipal income tax on the qualifying wages of such a person if the person performs those services on twelve or fewer days in a calendar year, unless the principal place of work of the employer is located in another municipal corporation in this state that imposes a tax applying to compensation paid to the person for services performed on those days and the person is not liable to that other municipal corporation for tax on the compensation paid for such services. For the purposes of this division, a petroleum refinery is a facility with a standard industrial classification code facility classification of 2911, petroleum refining.

Notwithstanding division (D) of this section, if, during a calendar year, the number of days an individual performs personal services at a petroleum refinery exceeds twelve, the employer shall withhold tax for the municipal corporation for the first twelve days for which the employer paid qualifying wages to the individual and for all subsequent days in the calendar year on which the individual performed services at the refinery.

*(Source: ORC 718.011; ORC 718.01)*

## **192.06 INCOME SUBJECT TO NET PROFIT TAX**

### **192.061 DETERMINING MUNICIPAL TAXABLE INCOME FOR TAXPAYERS WHO ARE NOT INDIVIDUALS**

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

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

- (i) "Net Profit" for a person other than an individual is defined in Section 192.03(W).
- (ii) "Adjusted Federal Taxable Income" is defined in Section 192.03(A) of this Chapter.
- (2) "Exempt Income" is defined in Section 192.03(K) of this Chapter.
- (3) "Apportionment" means the apportionment as determined by Section 192.062 of this Chapter.
- (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 192.03 (FF) of this Chapter.

(Source: ORC 718.01)

## **192.062 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE APPORTIONMENT**

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

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

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

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

(2) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the Municipality to wages, salaries, and other compensation paid during the same period to individuals employed in the business or profession, wherever the individual's services are performed, excluding compensation from which taxes are not required to be withheld under section 192.052 of this Chapter;

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

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

- (a) Separate accounting;
- (b) The exclusion of one or more of the factors;
- (c) The inclusion of one or more additional factors that would provide for a more fair apportionment of the income of the taxpayer to the Municipality;
- (d) A modification of one or more of the factors.

(2) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the

Tax Administrator denies the request in an assessment issued within the period prescribed by division (A) of Section 192.19 of this Chapter.

(3) A Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (B)(1) of this section only by issuing an assessment to the taxpayer within the period prescribed by division (A) of Section 192.19 of this Chapter.

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

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

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

(a) The employer;

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

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

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

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

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

(1) Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

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

(b) The property is delivered within the municipal corporation from a location outside the municipal corporation, provided the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within such municipal corporation and the sales result from such solicitation or promotion.

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

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

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

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

(5) Gross receipts from rents and royalties from tangible personal property shall be

situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

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

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

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

(2) An individual who is a resident of a municipal corporation that imposes a municipal income tax shall report the individual's net profit from all real estate activity on the individual's annual tax return for that municipal corporation. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such credit is allowed under Section 192.081 of this Chapter.

(G) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (K)(12) and (HH)(1)(d) of Section 192.03 of this Chapter, by a municipal corporation to which the taxpayer has apportioned a portion of its net profit, the taxpayer shall add the amount that is exempt from taxation to the taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a taxpayer's net profit that was apportioned to a municipal corporation under this section.

(H) When calculating the ratios described in division (A) of this section for the purposes of that division or division (B) of this section, the owner of a disregarded entity shall include in the owner's ratios the property, payroll, and gross receipts of such disregarded entity.

*(Source: ORC 718.02)*

## **192.063 CONSOLIDATED FEDERAL INCOME TAX RETURN**

(A) As used in this section:

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

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

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

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

of the Revised Code.

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

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

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

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

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

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

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

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

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

(E) (1) Except as otherwise provided in divisions (E)(2), (3), and (4) of this section, corporations that file a consolidated municipal income tax return shall compute adjusted federal taxable income, as defined in section 192.03(A) of this Chapter, by substituting "consolidated federal taxable income" for "federal taxable income" wherever "federal taxable income" appears in that division and by substituting "an affiliated group of corporation's" for "a C corporation's" wherever "a C corporation's" appears in that division.

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (A) of 192.03 of this Chapter to the extent that the item of income or deduction otherwise subject to the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

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

(a) Exclude the pass-through entity's net profit or loss from the consolidated

federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 192.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so excluded, the entity shall be subject to taxation as a separate taxpayer on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(b) Include the pass-through entity's net profit or loss in the consolidated federal taxable income of the affiliated group and, for the purpose of making the computations required in Section 192.062 of this Chapter, include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation. If the entity's net profit or loss is so included, the entity shall not be subject to taxation as a separate taxpayer on the basis of the entity's net profits that are included in the consolidated federal taxable income of the affiliated group.

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

(a) The corporation filing the consolidated municipal income tax return shall exclude the pass-through entity's net profit or loss from the consolidated federal taxable income of the affiliated group and, for the purposes of making the computations required in Section 192.062 of this Chapter, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit situated to a municipal corporation;

(b) The pass-through entity shall be subject to municipal income taxation as a separate taxpayer in accordance with this chapter on the basis of the entity's net profits that would otherwise be included in the consolidated federal taxable income of the affiliated group.

(F) Corporations filing a consolidated municipal income tax return shall make the computations required under Section 192.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "taxpayer" wherever "taxpayer" appears in that section.

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

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

*(Source: ORC 718.06)*

## **192.07 DECLARATION OF ESTIMATED TAX**

(A) As used in this section:

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

(2) "Tax liability" means the total taxes due to a municipal corporation for the taxable

year, after allowing any credit to which the taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another taxable year.

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

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

(b) An overpayment of tax applied as a credit to a subsequent taxable year is deemed to be paid on the date of the postmark stamped on the cover in which the payment is mailed or, if the payment is made by electronic funds transfer, the date the payment is submitted. As used in this division, "date of the postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

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

(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 192.091 of this Chapter or on or before the fifteenth day of the fourth month of the first taxable year after the taxpayer becomes subject to tax for the first time.

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

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

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

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

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

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

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

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

(3) On or before the fifteenth day of the fourth month of the year following that for which the declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due shall be paid with the return in accordance with section 192.091 of this Chapter.

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

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

fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the taxable year or period.

- (4) An amended declaration is required whenever the taxpayer's estimated tax liability changes during the taxable year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the taxable year.
- (D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 192.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:
- (a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
  - (b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
  - (c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;
  - (d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.
- (2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.
- (E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the taxable year if any of the following apply:
- (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
  - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 192.091 of this Chapter for that year.
  - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.
- (F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.

*(Source: 718.08)*

## **192.08 CREDIT FOR TAX PAID**

### **192.081 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY**

When the municipal taxable income of a resident of the municipality is subject to a municipal income tax in another municipality on the same income taxable under this chapter, such resident

shall be allowed a credit for one-half of any income tax paid or credited to the other municipality. This credit shall not exceed fifty percent (50%) of the municipal income tax due on such income. (Ord. 82-36. Passed 12-13-82.)

#### **192.084 CREDIT FOR TAX BEYOND STATUTE FOR OBTAINING REFUND**

(A) Income tax that has been deposited or paid to the Municipality, but should have been deposited or paid to another municipal corporation, is allowable by the Municipality as a refund, but is subject to the three-year limitation on refunds as provided in Section 192.096 of this Chapter.

(B) Income tax that should have been deposited or paid to the Municipality, but was deposited or paid to another municipal corporation, shall be subject to collection and recovery by the Municipality. To the extent a refund of such tax or withholding is barred by the limitation on refunds as provided in section 192.096, the Municipality will allow a non-refundable credit equal to the tax or withholding paid to the other municipality against the income tax the Municipality claims is due. If the Municipality's tax rate is higher, the tax representing the net difference of the tax rates is also subject to collection by the Municipality, along with any penalty and interest accruing during the period of nonpayment.

(C) No carryforward of credit will be permitted when the overpayment is beyond the three-year limitation for refunding of same as provided in Section 192.096 of this Chapter.

(D) Nothing in this section requires a Municipality to allow credit for tax paid to another municipal corporation if the Municipality has reduced credit for tax paid to another municipal corporation. Section 192.081 of this Chapter regarding any limitation on credit shall prevail.

*(Source: ORC 718.121)*

#### **192.09 ANNUAL RETURN**

##### **192.091 RETURN AND PAYMENT OF TAX**

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

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 192.051(C) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

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

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

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

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

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

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040 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 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 192.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 192.092 of this Chapter, the provision in Section 192.092 of this Chapter prevails.

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

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

(I) This division shall not apply to payments required to be made under Section 192.051(B) 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.

(J) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in section 192.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(K) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(L) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this

Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality or Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

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

(N) (1) As used in this division, "worksite location" has the same meaning as in section 192.052 of this chapter.

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

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

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

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

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

*(Source: ORC 718.05)*

#### **192.094 EXTENSION OF TIME TO FILE**

(A) Any taxpayer that has duly requested an automatic six-month extension for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a

municipal income tax return. The extended due date of the municipal income tax return shall be the fifteenth day of the tenth month after the last day of the taxable year to which the return relates.

(B) Any taxpayer that qualifies for an automatic federal extension for a period other than six-months for filing the taxpayer's federal income tax return shall automatically receive an extension for the filing of a municipal income tax return. The extended due date of the municipal income tax return shall be the same as that of the extended federal income tax return.

(C) A taxpayer that has not requested or received a six-month extension for filing the taxpayer's federal income tax return may request that the Tax Administrator grant the taxpayer a six-month extension of the date for filing the taxpayer's municipal income tax return. If the request is received by the Tax Administrator on or before the date the municipal income tax return is due, the Tax Administrator shall grant the taxpayer's requested extension.

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

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

*(Source: ORC 718.05)*

## **192.095 AMENDED RETURNS**

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

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

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

(B) (1) In the case of an underpayment, the amended return shall be accompanied by payment of any combined additional tax due together with any penalty and interest thereon. If the combined tax shown to be due is ten dollars or less, such amount need not accompany the amended return. Except as provided under division (B)(2) of this section, the amended return shall not reopen those facts, figures, computations, or attachments from a previously filed return that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless the applicable statute of limitations for civil actions or prosecutions under section 192.19 of this Chapter has not expired for a previously filed return.

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

(C) (1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (A)(2) of section 192.19 of this Chapter for filing the amended return even if it is filed beyond the period prescribed in that division if it otherwise conforms to the requirements of that division. If the amount of the refund is ten dollars or less, no refund need be paid by the Municipality to the taxpayer. Except as set forth in division (C)(2) of this section, a request filed under this division shall claim

refund of overpayments resulting from alterations to only those facts, figures, computations, or attachments required in the taxpayer's annual return that are affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return unless it is also filed within the time prescribed in section 192.096 of this Chapter. Except as set forth in division (C)(2) of this section, the request shall not reopen those facts, figures, computations, or attachments that are not affected, either directly or indirectly, by the adjustment to the taxpayer's federal or state income tax return.

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

## **192.096 REFUNDS**

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

(1) Overpayments of more than ten dollars;

(2) Amounts paid erroneously if the refund requested exceeds ten dollars.

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

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

(3) If a Tax Administrator denies in whole or in part a refund request included within the taxpayer's originally filed annual income tax return, the Tax Administrator shall notify the taxpayer, in writing, of the amount of the refund that was denied, the reasons for the denial, and instructions for requesting an assessment that may be appealed under Section 192.18 of this Chapter.

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

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

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

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

(D) Interest shall be allowed and paid on any overpayment by a taxpayer of any municipal income tax obligation from the date of the overpayment until the date of the refund of the overpayment, except that if any overpayment is refunded within ninety days after the final filing date of the annual return or ninety days after the completed return is filed, whichever is later, no interest shall be allowed on the refund. For the purpose of computing the payment of interest on

amounts overpaid, no amount of tax for any taxable year shall be considered to have been paid before the date on which the return on which the tax is reported is due, without regard to any extension of time for filing that return. Interest shall be paid at the interest rate described in division (A)(4) of Section 192.10 of this Chapter.

(E) As used in this section, "withholding tax" has the same meaning as in section 192.10 of this Chapter.

(Source: ORC 718.19).

## **192.10 PENALTY, INTEREST, FEES, AND CHARGES**

(A) As used in this section:

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

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

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

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

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

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

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

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

(9) "Withholding tax" includes amounts an employer, any agent of an employer, or any other payer did not withhold in whole or in part from an employee's qualifying wages, but that, under applicable law, the employer, agent, or other payer is required to withhold from an employee's qualifying wages.

(B) (1) This section shall apply to the following:

(a) Any return required to be filed under applicable law for taxable years beginning on or after January 1, 2016;

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

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

(C) The Municipality shall impose on a taxpayer, employer, any agent of the employer, and any other payer, and will attempt to collect, the interest amounts and penalties prescribed in this

section when the taxpayer, employer, any agent of the employer, or any other payer for any reason fails, in whole or in part, to make to the Municipality timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the Municipality any return required to be filed.

- (1) Interest shall be imposed at the rate defined as “interest rate as described in division (A) of this section”, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax. This imposition of interest shall be assessed per month, or fraction of a month.
  - (2) With respect to unpaid income tax and unpaid estimated income tax, a penalty equal to fifteen percent of the amount not timely paid shall be imposed.
  - (3) With respect to any unpaid withholding tax, a penalty equal to fifty percent of the amount not timely paid shall be imposed.
  - (4) With respect to returns other than estimated income tax returns, the Municipality shall impose a monthly penalty of twenty-five dollars for each failure to timely file each return, regardless of the liability shown thereon for each month, or any fraction thereof, during which the return remains unfiled regardless of the liability shown thereon. The penalty shall not exceed a total of one hundred fifty dollars in assessed penalty for each failure to timely file a return.
- (D). With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not impose, seek to collect, or collect any penalty, amount of interest, charges or additional fees not described in this section.
- (E). With respect to income taxes, estimated income taxes, withholding taxes, and returns, the Municipality shall not refund or credit any penalty, amount of interest, charges, or additional fees that were properly imposed or collected before January 1, 2016.
- (F). The Tax Administrator may, in the Tax Administrator’s sole discretion, abate or partially abate penalties or interest imposed under this section when the Tax Administrator deems such abatement or partial abatement to be appropriate. Such abatement or partial abatement shall be properly documented and maintained on the record of the taxpayer who received benefit of such abatement or partial abatement.
- (G). The Municipality shall impose on the taxpayer, employer, any agent of the employer, or any other payer the Municipality’s post-judgment collection costs and fees, including attorney’s fees.

*(Source: ORC 718.27)*

## **192.11 AUDIT**

- (A) At or before the commencement of an audit, as defined in Section 192.03(C) of this Chapter, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during an audit and a statement of the taxpayer’s rights, including any right to obtain a refund of an overpayment of tax. At or before the commencement of an audit, the Tax Administrator shall inform the taxpayer when the audit is considered to have commenced.
- (B) Except in cases involving suspected criminal activity, the Tax Administrator shall conduct an audit of a taxpayer during regular business hours and after providing reasonable notice to the taxpayer. A taxpayer who is unable to comply with a proposed time for an audit on the grounds that the proposed time would cause inconvenience or hardship must offer reasonable alternative dates for the audit.
- (C) At all stages of an audit by the Tax Administrator, a taxpayer is entitled to be assisted or represented by an attorney, accountant, bookkeeper, or other tax practitioner. The Tax Administrator shall prescribe a form by which a taxpayer may designate such a person to assist or represent the taxpayer in the conduct of any proceedings resulting from actions by the Tax Administrator. If a taxpayer has not submitted such a form, the Tax Administrator may accept other evidence, as the Tax Administrator considers appropriate, that a person is the authorized representative of a taxpayer.
- A taxpayer may refuse to answer any questions asked by the person conducting an audit until

the taxpayer has an opportunity to consult with the taxpayer's attorney, accountant, bookkeeper, or other tax practitioner. This division does not authorize the practice of law by a person who is not an attorney.

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

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

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

(Source: ORC 718.36)

## **192.13 AUTHORITY AND POWERS OF THE TAX ADMINISTRATOR**

### **192.131 DUTIES OF THE TAX ADMINISTRATOR.**

(a) (1) The Tax Administrator shall collect and receive the tax imposed by this chapter in a manner prescribed herein, and shall keep accurate records thereof, and account for all moneys so received.

(2) The Tax Administrator shall enforce payment of all income taxes owing to the City, to keep accurate records for a minimum of five years showing the amount due from each taxpayer required to file a declaration or to make any return, including a return of taxes withheld, and shall show the dates and amounts of payments thereof.

(b) The Tax Administrator is hereby empowered to enforce all provisions of this chapter, and to adopt and promulgate and to enforce rules and regulations authorized or required by this chapter relating to any matter or thing pertaining to the collection and payment of taxes and the administration and enforcement of the provisions of this chapter, including provisions for the examination and correction of returns. The Tax Administrator shall be assisted in the promulgation of such rules and regulations by the permanent Tax Advisory Committee established in Section 191.13.

(c) In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Tax Administrator may determine the amount of tax appearing to be due the City from the taxpayer and may send such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

(d) Subject to the approval of the Board of Review, the Tax Administrator shall have the power to compromise any liability imposed by this chapter.

(Ord. 82-36. Passed 12-13-82.)

### **191.133 INVESTIGATIVE POWER OF THE TAX ADMINISTRATOR; PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.**

(a) Examination of Records. The Tax Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal and State income tax returns of any employer or of any taxpayer or person subject to, or whom 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 made, to ascertain the tax due under this chapter.

Every employer, taxpayer and all others subject to, or believed to be subject to, the provisions of this chapter are hereby directed and required to furnish upon written request to the Tax Administrator, or his duly authorized agent, or employee, the means, facilities and opportunity for making such examinations and investigations as hereby authorized.

(b) Power to Order Appearance of Taxpayer. The Tax Administrator is hereby

authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction to affect such income, and for this purpose may compel the production of books, papers, records and Federal and State income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry. Prior to any examination, the Tax Administrator shall advise any such taxpayer that he has the right to have his tax representative present.

(c) Failure to Submit Information Required by Tax Administrator. The refusal to produce books, papers, records and Federal and State income tax returns or the refusal to submit to such examination by any employer or person subject or believed to be subject to the tax or required to withhold tax or failure of any person to comply with the provisions of this section or with an order or subpoena of the Tax Administrator authorized hereby shall be deemed in violation of this chapter, punishable as provided in Section 191.99.

(d) Confidential Nature of Information; Penalty for Disclosure. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information or information of this chapter shall be subject to the penalty provided in Section 191.99. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the City who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

(e) Retention of Records. Each and every taxpayer shall retain all records necessary to compute his tax liability for a period of five years from the date his return is filed or due, whichever is later, or the withholding taxes are paid.  
(Ord. 82-36. Passed 12-13-82.)

## **192.14 CONFIDENTIALITY**

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

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

(Source: ORC 718.13)

## **192.17 ASSESSMENT; APPEAL BASED ON PRESUMPTION OF DELIVERY**

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

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

Such alternative delivery method must be authorized by the person subject to the assessment.

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

(B) (1) A person may challenge the presumption of delivery and service as set forth in this division. A person disputing the presumption of delivery and service under this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment by certified mail. For the purposes of this section, a person is associated with an address at the time the Tax Administrator originally mailed the assessment if, at that time, the person was residing, receiving legal documents, or conducting business at the address; or if, before that time, the person had conducted business at the address and, when the assessment was mailed, the person's agent or the person's affiliate was conducting business at the address. For the purposes of this section, a person's affiliate is any other person that, at the time the assessment was mailed, owned or controlled at least twenty per cent, as determined by voting rights, of the addressee's business.

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

(Source: ORC 718.18)

## **192.18 LOCAL BOARD OF TAX REVIEW; APPEAL TO LOCAL BOARD OF TAX REVIEW**

(A) (1) The legislative authority of the Municipality shall maintain a Local Board of Tax Review to hear appeals as provided in Ohio Revised Code Chapter 718.

(2) The Local Board of Tax Review shall consist of three members. 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 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.

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

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

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

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

(F) The Local Board of Tax Review created pursuant to this section shall adopt rules governing its procedures, including a schedule of related costs, and shall keep a record of its transactions. The rules governing the Local Board of Tax Review procedures shall be in writing, and may be amended as needed by the Local Board of Tax Review. Such records are not public records available for inspection under section 149.43 of the Ohio Revised Code. For this reason, any documentation, copies of returns or reports, final determinations, or working papers for each case must be maintained in a secure location under the control of the Tax Administrator. No member of the Local Board of Tax Review may remove such documentation, copies of returns or reports, final determinations, or working papers from the hearing. Hearings requested by a taxpayer before a Local Board of Tax Review created pursuant to this section are not meetings of a public body subject to section 121.22 of the Ohio Revised Code. For this reason, such hearings shall not be open to the public, and only those parties to the case may be present during the hearing.

*(Source: ORC 718.11)*

## **192.19 ACTIONS TO RECOVER; STATUTE OF LIMITATIONS**

- (A) (1) (a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the latter of:
- (i) Three years after the tax was due or the return was filed, whichever is later; or

- (ii) One year after the conclusion of the qualifying deferral period, if any.
  - (b) The time limit described in division (A)(1)(a) of this section may be extended at any time if both the Tax Administrator and the employer, agent of the employer, other payer, or taxpayer consent in writing to the extension. Any extension shall also extend for the same period of time the time limit described in division (C) of this section.
- (2) As used in this section, "qualifying deferral period" means a period of time beginning and ending as follows:
  - (a) Beginning on the date a person who is aggrieved by an assessment files with a Local Board of Tax Review the request described in Section 192.18 of this Chapter. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Local Board of Tax Review with which the aggrieved person filed the request did not have jurisdiction to affirm, reverse, or modify the assessment or any part of that assessment.
  - (b) Ending the later of the sixtieth day after the date on which the final determination of the Local Board of Tax Review becomes final or, if any party appeals from the determination of the Local Board of Tax Review, the sixtieth day after the date on which the final determination of the Local Board of Tax Review is either ultimately affirmed in whole or in part or ultimately reversed and no further appeal of either that affirmation, in whole or in part, or that reversal is available or taken.
- (B) Prosecutions for an offense made punishable under a resolution or ordinance imposing an income tax shall be commenced within three years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the omission of twenty-five per cent or more of income required to be reported, prosecutions may be commenced within six years after the commission of the offense.
- (C) A claim for a refund of municipal income taxes shall be brought within the time limitation provided in Section 192.096 of this Chapter.
- (D)
  - (1) Notwithstanding the fact that an appeal is pending, the petitioner may pay all or a portion of the assessment that is the subject of the appeal. The acceptance of a payment by the Municipality does not prejudice any claim for refund upon final determination of the appeal.
  - (2) If upon final determination of the appeal an error in the assessment is corrected by the Tax Administrator, upon an appeal so filed or pursuant to a final determination of the Local Board of Tax Review created under Section 192.18 of this Chapter, of the Ohio board of tax appeals, or any court to which the decision of the Ohio board of tax appeals has been appealed, so that the amount due from the party assessed under the corrected assessment is less than the amount paid, there shall be issued to the appellant or to the appellant's assigns or legal representative a refund in the amount of the overpayment as provided by Section 192.096 of this Chapter, with interest on that amount as provided by division (D) of this section.
- (E) No civil action to recover municipal income tax or related penalties or interest shall be brought during either of the following time periods:
  - (1) The period during which a taxpayer has a right to appeal the imposition of that tax or interest or those penalties;
  - (2) The period during which an appeal related to the imposition of that tax or interest or those penalties is pending.

(Source: ORC 718.12)

**192.21 PERMANENT TAX ADVISORY COMMITTEE.**

A permanent Tax Advisory Committee, consisting of seven members to be appointed by the Mayor with the approval of Council, is hereby established. Effective January 1, 1987, members of the Committee shall serve three-year terms with initial appointments of the Committee to be as follows:

- (a) Two members to be appointed to a one-year term.
- (b) Two members to be appointed to a two-year term and three members to be appointed to a three-year term.
- (c) All subsequent terms of office shall be three years in length.

The duties of this Committee shall be to assist the Tax Administrator in promulgating rules and regulations made necessary as a part of this chapter and to recommend and to submit for approval of Council any future changes to this chapter. Further, this Committee shall perform any additional duties and responsibilities as Council may, from time to time, so direct. In addition, two members of Council shall be appointed by the Mayor as ex-officio members of the permanent Tax Advisory Committee. (Ord. 88-86. Passed 9-12-88.)

**192.22 RETURNS BY LANDLORDS, CONDOMINIUM ASSOCIATIONS AND OTHER ORGANIZATIONS.**

(a) Commencing September 30, 2005 and thereafter, any property owner, condominium association, or other owners' or residents' affiliation who rents two or more dwelling units to tenants of apartments, condominiums, trailer parks, or any other rental accommodations within the City of Delaware, shall file with the Tax Administrator a semiannual return that lists each such tenant who occupies an apartment, condominium, trailer park, or other rental accommodations within the corporate limits of the City of Delaware. This return shall contain the name and address of each tenant and is due on March 31 and September 30 of each year. This return shall not include those tenants who are responsible for their own water utility payments, and no return is required if all of the property owner's tenants are responsible for their own water utility payments.

(b) Any person required by this section to submit the semi-annual return described in subsection (a) who fails to submit such return shall be subject to the penalty provisions contained in Section 192.99 of this Chapter. (Ord. 05-07. Passed 3-14-05.)

**192.97 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.**

(a) This chapter shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and the actions or proceedings for the collection of any tax so levied or enforcing any provisions of this chapter are concerned, it shall continue effective until all the taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of such taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Section 192.19.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Section 192.091 as though the same were still in effect.

**192.98 SAVINGS CLAUSE.**

If any sentence, clause, section or part of this chapter, or any tax imposed against, or exemption from tax granted to, any taxpayer or forms of income specified herein is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality, or invalidity shall affect only such clause, sentence, section or part of this chapter so found and shall not affect or impair any

of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of the legislative authority of the Municipality that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included in this chapter.

## **192.99 VIOLATIONS; PENALTY**

(A) Except as provided in division (B) of this section, whoever violates Section 192.15 of this Chapter,, division (A) of Section 192.14 of this Chapter,, or Section 192.051 of this Chapter by failing to remit municipal income taxes deducted and withheld from an employee, shall be guilty of a misdemeanor of the first degree and shall be subject to a fine of not more than one thousand dollars or imprisonment for a term of up to six months, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(B) Any person who discloses information received from the Internal Revenue Service in violation of Internal Revenue Code Sec. 7213(a), 7213A, or 7431 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than five thousand dollars plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. In addition, the violation is punishable by dismissal from office or discharge from employment, or both.

(C) Each instance of access or disclosure in violation of division (A) of Section 192.14 of this Chapter constitutes a separate offense.

**(D) Whoever violates any provision of this Chapter for which violation no penalty is otherwise provided, is guilty of a misdemeanor of the 4<sup>th</sup> degree on a first offense; on a second offense within one year after the first offense, the person is guilty of a misdemeanor of the 3<sup>rd</sup> degree; on each subsequent offense within one year after the first offense, the person is guilty of a misdemeanor of the 2<sup>nd</sup> degree. 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 192.051; or
- (5) Neglect or refuse to withhold or remit municipal income tax from employees; or
- (6) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer; or
- (7) Fail to appear before the Tax Administrator and to produce his or her books, records, papers, federal and state income tax returns, or any documentation relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator; or
- (8) Refuse to disclose to the Tax Administrator any information with respect to such person's income or net profits, or in the case of a person responsible for maintaining information relating to his or her employers' income or net profits, such person's employer's income or net profits; or
- (9) Fail to comply with the provisions of this chapter or any order or subpoena of the Tax Administrator; or
- (10) To avoid imposition or collection of municipal income tax, willfully give to an employer or prospective employer false information as to his or her true name, correct social security number and residence address, or willfully fail to promptly notify an employer or a prospective employer of any change in residence address and date thereof; or
- (11) Fail, as an employer, agent of an employer, or other payer, to maintain proper

records of employees residence addresses, total qualifying wages paid and municipal tax withheld, or to knowingly give the Tax Administrator false information; or

(12) Willfully fail, neglect, or refuse to make any payment of estimated municipal income tax for any taxable year or any part of any taxable year in accordance with this Chapter; or

(13) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Chapter.

(14) For purposes of this Section, any violation that does not specify a culpable mental state or intent, shall be one of strict liability and no culpable mental state or intent shall be required for a person to be guilty of that violation.

(15) For purposes of this Section, the term "person" shall, in addition to the meaning prescribed in Section 192.03, include in the case of a corporation, association, pass-through entity or unincorporated business entity not having any resident owner or officer within the city, any employee or agent of such corporation, association, pass-through entity or unincorporated business entity who has control or supervision over or is charged with the responsibility of filing the municipal income tax returns and making the payments of the municipal income tax as required by this Chapter.

*(Source: ORC 718.99)*

## HB5 Notes of Significant Changes

- **5 YEAR LOSS CARRYFORWARD:** Currently the City allows a 3 year loss carryforward. Starting with tax year 2017, 50% of loss will be available to offset profit until tax year 2023 when 100% of loss will be available. *Chapter 192.03 (A)(8)*
- **Occasional entrant rule increases from 12 days to 20 days.** After 20 days of performing services within the City, the employer is required to withhold tax. *Chapter 192.052 (B)*
- **Uniform Thresholds:**  
**Individual / Net Profit:** No remittance of tax is required with a return if the amount shown to be due is \$10 or less. *Chapter 192.091 (G)(1)(c)*

**Refunds:** Will not be issued for \$10 or less. *Chapter 192.096 (A)*

**Estimated Payment:** Quarterly payment of estimated tax is not required unless tax due will exceed \$200.00 for the year (after withholding and credits). Currently the City's threshold is \$60.00. *Chapter 192.07 (B)(1)*

Due dates change from end of month following quarter to the 15<sup>th</sup> day following the end of the quarter. *Chapter 192.07 (C)(1)*

- **Uniform filing deadlines:**  
**Withholding:**  
If the tax withheld was greater than \$2,399 in the previous calendar year or greater than \$200 per month in any month of the preceding calendar quarter --remit monthly, due the 15th day of the following month. All others remit quarterly by the 15th day of the month following the end of the quarter. Currently, only payments > \$1000.00 are due monthly (due last day of the month following the withholding period).  
*Chapter 192.051 (B)(1)(a)*
- **Inclusion in income:**  
Lottery, gambling, prizes and awards are now included in the definition of Municipal Taxable Income. *Chapter 192.03 (N)(4)*
- **Uniform Penalty and Interest Rates:**  
**Non-payment of Tax - Penalty:**  
A flat 15% of the unpaid tax for individuals and net profit filers is charged. Currently, the City charges 1% penalty per month on unpaid tax balance.  
Withholding accounts are charged a 50% penalty. Currently, the City charges 3% penalty per month on unpaid tax balance. *Chapter 192.10 (C)*  
  
**Non-payment of Tax - Interest Rate:**  
Federal short-term rate, plus 5% (individual, net profit and withholding). Currently, the City charges 1% interest per month on unpaid tax balance. *Chapter 192.10 (A)(4)*



## FACT SHEET

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AGENDA ITEM NO: 11

DATE: 11/23/15

ORDINANCE NO: 15-113

RESOLUTION NO:

READING: FIRST

PUBLIC HEARING: **YES**  
**November 23, 2015 at 7:45 p.m.**

---

TO: Mayor and Members of City Council

FROM: R. Thomas Homan, City Manager

VIA: --

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**TITLE OF PROPOSED ORDINANCE/RESOLUTION:**

AN ORDINANCE MAKING APPROPRIATIONS FOR THE YEAR 2016, AND DECLARING AN EMERGENCY.

**BACKGROUND:**

This is the first reading of the 2016 budget ordinance, which is also the subject of a 7:45 public hearing. The second reading and public hearing are scheduled for Council's December 14 meeting; adoption is scheduled for Monday, December 21.

The proposed budget review schedule is:

Tuesday, December 1

Wednesday, December 3

Thursday, December 10

Thursday, December 17

The meetings are scheduled to begin at 6:30.

(Since the schedule was proposed, Councilman Jones has indicated he will be out of town on business from November 30 through December 3.

Available meeting dates the week of December 7 are:

Monday, December 7

Tuesday, December 8  
Thursday, December 10.

Council should also spend some time discussing how they want to approach the budget reviews.

**REASON WHY LEGISLATION IS NEEDED:**

**COMMITTEE RECOMMENDATION:**

N/A

**FISCAL IMPACT(S):**

**POLICY CHANGES:**

N/A

**PRESENTER(S):**

R. Thomas Homan, City Manager  
Dean Stelzer, Finance Director

**RECOMMENDATION:**

Approval at third reading

**ATTACHMENT(S)**

N/A

ORDINANCE NO. 15-113

AN ORDINANCE MAKING APPROPRIATIONS FOR THE  
YEAR 2016 AND DECLARING AN EMERGENCY

BE IT ORDAINED by the Council of the City of Delaware, State of Ohio:

SECTION 1. That from and out of the balances in the various funds of the City of Delaware, and from money anticipated to be received into said funds, there are hereby appropriated the following sums for use by the various departments of the City in performance of their functions and activities during the year ending December 31, 2016.

**GENERAL FUND**

CITY COUNCIL		
Personnel	80,495	
Other	17,976	
CITY MANAGER		
Personnel	627,175	
Other	80,685	
ADMINISTRATIVE SERVICES		
Personnel	211,861	
Other	63,026	
ECONOMIC DEVELOPMENT		
Personnel	177,090	
Other	155,891	
LEGAL AFFAIRS/PROSECUTOR		
Personnel	710,800	
Other	56,657	
FINANCE		
Personnel	1,155,914	
Other	628,199	
GENERAL ADMINISTRATION		
Other	4,774,685	
RISK MANAGEMENT		
Other	219,900	
POLICE		
Personnel	6,960,806	
Other	759,487	
PLANNING		
Personnel	928,810	
Other	150,919	
ENGINEERING		
Personnel	743,494	
Other	543,148	
MUNICIPAL BUILDINGS		
Personnel	101,944	
Other	308,157	
<b>TOTAL GENERAL FUND</b>		<b>19,457,119</b>
<b>STREET MAINTENANCE &amp; REPAIR</b>		
Administration		
Personnel	656,313	
Other	176,513	
Street Maintenance		
Personnel	602,272	
Other	732,508	
Traffic Division		
Personnel	358,713	
Other	225,135	
<b>TOTAL STREET MAINTENANCE</b>		<b>2,751,454</b>

<b>STATE HIGHWAY IMPROVEMENT</b>		<b>100,000</b>
<b>LICENSE FEE FUND</b>		<b>420,000</b>
<b>STORM SEWER FUND</b>		
Operations		
Personnel	241,355	
Other	245,339	
Projects		
Other	1,040,000	
<b>TOTAL STORM SEWER</b>		<b>1,526,694</b>
<b>PARKS &amp; RECREATION FUND</b>		
Park Maintenance		
Personnel	689,252	
Other	265,249	
Recreation		
Other	205,000	
Urban Forestry		
Personnel	73,864	
Other	62,250	
<b>TOTAL PARKS &amp; RECREATION</b>		<b>1,295,615</b>
<b>CEMETERY FUND</b>		
Personnel	178,756	
Other	219,784	
<b>TOTAL CEMETERY FUND</b>		<b>398,540</b>
<b>TREE FUND</b>		<b>50,000</b>
<b>AIRPORT OPERATIONS FUND</b>		
Personnel	171,074	
Other	570,222	
<b>TOTAL AIRPORT OPERATIONS FUND</b>		<b>741,296</b>
<b>AIRPORT 2000 T-HANGAR FUND</b>		<b>103,235</b>
<b>FIRE/EMS OPERATINS FUND</b>		
Personnel	8,009,110	
Other	6,884,995	
<b>TOTAL FIRE/EMS OPERATIONS FUND</b>		<b>14,894,105</b>
<b>MUNICIPAL COURT</b>		
Judicial		
Personnel	1,210,351	
Other	61,750	
Clerk of Courts		
Personnel	1,148,491	
Other	83,475	
<b>TOTAL MUNICIPAL COURT</b>		<b>2,504,067</b>
<b>RECREATION CENTER INCOME TAX</b>		<b>2,351,892</b>
<b>AIRPORT TIF</b>		<b>20,000</b>
<b>SKY CLIMBER/V&amp;P HYDRAULICS TIF FUND</b>		<b>50,000</b>
<b>MILL RUN TIF FUND</b>		<b>165,000</b>
<b>IDIAM FUND</b>		<b>11,000</b>
<b>DRUG ENFORCEMENT FUND</b>		<b>49,000</b>

INDIGENT ALCOHOL TREATMENT FUND	100,000
OMVI ENFORCEMENT & EDUCATION FUND	1,616
POLICE JUDGMENT FUND	55,000
PARKS EXACTION FEE FUND	201,241
COMPUTER LEGAL RESEARCH FUND	295,425
COURT SPECIAL PROJECTS FUND	441,775
COURT PROBATION SERVICES FUND	177,000
POLICE DISABILITY PENSION FUND	211,800
FIRE DISABILITY PENSION FUND	211,800
COMMUNITY PROMOTION FUND	113,075
COMMUNITY DEVELOPMENT BLOCK GRANT FUND	80,000
REVOLVING LOAN FUND	185,000
HOUSING PROGRAM INCOME FUND	24,878
CHIP GRANT 2015	332,200
GENERAL BOND RETIREMENT FUND	1,919,936
PARK IMPROVEMENT BOND FUND	1,278,202
SE HIGHLAND SEWER BOND FUND	997,622
CAPITAL IMPROVEMENTS FUND	3,884,115
FAA AIRPORT AIP GRANT FUNC	556,215
EQUIPMENT REPLACEMENT FUND	671,700
PARK IMPACT FEE FUND	740,545
POLICE IMPACT FEE FUND	61,918
FIRE IMPACT FEE FUND	85,000
MUNICIPAL IMPACT FEE IMPROVEMENT FUND	330,707
GLENN ROAD SOUTH CONSTRUCTION FUND	11,840,976
GLENN ROAD NORTH CONSTRUCTION FUND	110,695
GLENN ROAD TIF FUND	287,364
GOLF COURSE FUND	
Personnel	134,785
Other	59,574
TOTAL GOLF COURSE FUND	194,359
PARKING LOT FUND	58,175

<b>WATER FUND</b>			
Administration			
	Personnel	252,386	
	Other	3,015,092	
Treatment			
	Personnel	763,760	
	Other	1,134,933	
Distribution			
	Personnel	555,334	
	Other	376,493	
<b>TOTAL WATER FUND</b>			<b>6,097,998</b>
<b>WATER CONSTRUCTION FUND</b>			<b>2,715,000</b>
<b>WATER CAPACITY FEE FUND</b>			<b>1,281,760</b>
<b>WATER CUSTOMER DEPOSITS FUND</b>			<b>35,000</b>
<b>SEWER FUND</b>			
Administration			
	Personnel	199,644	
	Other	4,300,366	
Treatment			
	Personnel	835,478	
	Other	1,074,090	
Maintenance			
	Personnel	377,488	
	Other	307,655	
<b>TOTAL SEWER FUND</b>			<b>7,094,721</b>
<b>SEWER CONSTRUCTION FUND</b>			<b>3,063,992</b>
<b>SEWER CAPACITY FEE FUND</b>			<b>2,969,460</b>
<b>SE HIGHLAND SEWER FUND</b>			<b>997,467</b>
<b>REFUSE FUND</b>			
Administration			
	Other	1,268,713	
Refuse Collection			
	Personnel	625,019	
	Other	1,311,992	
Recycling Collection			
	Personnel	462,160	
	Other	400,790	
<b>TOTAL REFUSE FUND</b>			<b>4,068,674</b>
<b>GARAGE ROTARY FUND</b>			
	Personnel	309,002	
	Other	337,925	
<b>TOTAL GARAGE ROTARY FUND</b>			<b>646,927</b>
<b>INFORMATION TECHNOLOGY ROTARY FUND</b>			
Staff Support			
	Personnel	355,243	
	Other	20,300	
System Support			
	Other	485,607	
GIS Operations			
	Personnel	94,637	
	Other	26,703	
<b>TOTAL IT ROTARY FUND</b>			<b>982,490</b>
<b>SELF INSURANCE FUND</b>			<b>4,792,061</b>

<b>WORKERS COMPENSATION RESERVE FUND</b>	<b>565,000</b>
<b>FIRE DONATION FUND</b>	<b>4,000</b>
<b>POLICE DONATION FUND</b>	<b>7,677</b>
<b>MAYOR'S DONATION FUND</b>	<b>2,800</b>
<b>PROJECT TRUST FUND</b>	<b>10,000</b>
<b>UNCLAIMED FUNDS TRUST FUND</b>	<b>8,000</b>
<b>UNCLAIMED FUNDS COURT FUND</b>	<b>2,500</b>
<b>DEVELOPMENT RESERVE FUND</b>	<b>150,000</b>
<b>STATE HIGHWAY PATROL FUND</b>	<b>67,500</b>
<b>STATE BUILDING PERMIT FEE FUND</b>	<b>6,400</b>
 <b>TOTAL APPROPRIATIONS - ALL FUNDS</b>	 <b>107,906,783</b>

SECTION 2. That the Finance Director is hereby authorized to make payment from any of the foregoing appropriations to the extent of the amounts contained in the respective appropriations whenever claims, duly approved by the officer authorized by law to approve such claims, are presented.

SECTION 3. That the Finance Director is hereby authorized and empowered to make necessary changes which are not in conflict with this ordinance within a given appropriation to carry out the functions of the City. No changes to the total amount of a departmental or fund appropriation may be made without the legislative action of the City Council.

SECTION 4. That any sums which shall be expended from the above appropriation and which are a proper charge against any other department, or against any person, firm or corporation, shall, if repaid within the period covered by such appropriation, be credited to the fund from which such payment was made.

SECTION 5. In accordance with Ohio Revised Code Sections 5705.14. 5705.15, and 5705.16 the Finance Director is hereby authorized to make the interfund transfers identified in the 2015 Budget Detail presented to, and approved by, City Council as part of the 2015 Budget adoption process.

**SECTION 6.** That the Clerk of Council is directed to certify a copy of this ordinance to the Budget Commission of Delaware County.

**SECTION 7. Emergency Clause.** That this ordinance is hereby declared to be an emergency measure necessary to provide for the public peace, safety, health and welfare of the City, and further to provide lawful appropriations available for expenditure by January 1, 2016, and as such will be in full force and effect immediately upon its passage.

VOTE ON EMERGENCY CLAUSE:

Yeas \_\_\_\_ Nays \_\_\_\_

PASSED: \_\_\_\_\_, 2015

Yeas \_\_\_\_ Nays \_\_\_\_

ATTEST:

\_\_\_\_\_  
Clerk

\_\_\_\_\_  
Mayor

TO: Mayor Riggle and Members of Council

FROM: R. Thomas Homan, City Manager

SUBJECT: Miscellaneous Matters

DATE: November 18, 2015

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1. **Calendar**  
See Attached
2. **Per Section 73 Of The City Charter The City Manager Is To Report Contract Agreements**  
See Attached
3. **Bi-Weekly Meetings**  
November 9
  - \* Rotary
  - \* Council meetingNovember 16
  - \* Rotary
  - \* Council Organizational meetingNovember 17
  - \* Strand Board meeting
  - \* 911 A Committee meeting
  - \* Economic Outlook Conference
4. **Required Reading**
  - A. Fire Department Monthly Report
  - B. 2015 YMCA/-City Recreation Report
  - C. 2016 Community Promotions Recommendations

# December

2015

<i>Sun</i>	<i>Mon</i>	<i>Tue</i>	<i>Wed</i>	<i>Thu</i>	<i>Fri</i>	<i>Sat</i>
		<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>	<b>5</b>
		TENTATIVE Budget Work Session	Planning Commission 7	TENTATIVE Budget Work Session		
<b>6</b>	<b>7</b>	<b>8</b>	<b>9</b>	<b>10</b>	<b>11</b>	<b>12</b>
			BZA 7	TENTATIVE Budget Work Session		
<b>13</b>	<b>14</b>	<b>15</b>	<b>16</b>	<b>17</b>	<b>18</b>	<b>19</b>
	Council meeting	Parks & Rec Advisory Board 7	HPC 7			
<b>20</b>	<b>21</b>	<b>22</b>	<b>23</b>	<b>24</b>	<b>25</b>	<b>26</b>
	Year-end Council meeting 7			City offices close at 12	City offices closed	
<b>27</b>	<b>28</b>	<b>29</b>	<b>30</b>	<b>31</b>		

**CONTRACT APPROVAL - NOVEMBER 23, 2015**

<b>VENDOR</b>	<b>EXPLANATION OF AGREEMENT</b>	<b>2015 AMOUNT</b>	<b>DEPARTMENT</b>
Trax/ACA Compliance	ACA Reporting Compliance Software	\$9,500	CMO
Pomeroy & Associates	Stratford Road Pedestrian Bridge	\$9,824	Engineering
CH2M Hill	AMI Implementation	\$20,000	Public Utilities
Vittoe Construction	Curve Road Landfill	\$512,106.79	Engineering
Delaware County	MOU - Delaware County Common Pleas Court and Municipal Court	\$0	Court

# Delaware Fire Department

## October 2015 Monthly Report

PERFORMANCE REVIEW	2012	2013	2014	2015	October	Year-to-Date	% Year to Date	% of Budget	(+ / -)
	Actual	Actual	Actual	Budget	Actual	Actual	Budget	Completed	Projected for Year
Total number of incidents	4,928	4,831	5,173	5,372	495	4,467	83.15%	75.00%	8.15%
Fire	103	104	101	107	17	112	104.67%	75.00%	29.67%
Rupture/Explosion	9	3	3	3	0	1	33.33%	75.00%	-41.67%
EMS	3,861	3,883	4,047	4,197	394	3,525	83.99%	75.00%	8.99%
Hazardous Conditions	173	131	124	135	9	107	79.26%	75.00%	4.26%
Service Calls	146	94	141	146	13	126	86.30%	75.00%	11.30%
Good Intent	169	165	162	176	13	135	76.70%	75.00%	1.70%
False Calls	453	440	589	599	49	451	75.29%	75.00%	0.29%
Severe Weather	6	3	0	2	0	1	50.00%	75.00%	-25.00%
Other	8	8	6	7	0	9	128.57%	75.00%	53.57%
Number of medical transports	2,593	2,576	2,586	2,888	376	3,294	114.06%	75.00%	39.06%
Percent of priority calls w/ response within 6 min	57%	56%	68%	68%	71%	74%	72.00%	75.00%	2.00%
Percent residential structure fires ERF of 15 FF within 12 minutes	40%	70%	78%	70%	100%	80%	14.29%	75.00%	70.00%
# Structure Fires			9	10	3	10	100.00%	75.00%	25.00%
# Structure with personnel and Times			7	7	3	8	114.29%	75.00%	39.29%
Number of commercial inspections conducted	594	1,222	1,473	1,250	125	1,289	103.12%	75.00%	28.12%
Number of plans reviewed within five days	89%	86%	100%	95%	100%	100%	105.26%	75.00%	100.00%
Number of fires greater than \$10,000	6	13	8	8	1	10	125.00%	75.00%	50.00%
Number of fires of suspicious nature	3	5	5	3	1	5	166.67%	75.00%	91.67%
Hours of Training	9,326	8,831	13,335	10,000	937	9,538	95.38%	75.00%	20.38%

### Major Incidents

- October 6, Structure Fire (small), Rockmill
- October 14, Structure Fire, Orange Twp.
- October 17, Structure Fire, Stilson St.
- October 25, Structure Fire, Somerset
- October 31, MVA Entrapment, Concord Twp.

### Other Activities

- October 2, First Friday-Fire Prevention week
- October 3, Smoke Detector Campaign, Red Cross/Kiwanis
- October 14, 15, Sam Dong, Emergency Drill
- October 24, City Halloween Event-Mingo
- October 31, Halloween in the Community

### 2010 Fire Levy Status

- Equipment - Continuing
  - Three new Paramedic trucks are currently on order. The expected delivery is late-2015.
  - Staff cars have been replaced in 2012, 2013, 2014 and 2015. This has included the implementation of retired police vehicles for station and inspector cars.
  - The new engine was delivered and placed in-service in April 2013.
  - The new paramedic truck was delivered and was placed in-service in January 2013.
  - The new ladder truck was delivered and was placed in-service in April 2012.

- Personnel - Continuing
  - Officer Development Training Continued. All new Lieutenants have completed their Instructor training, Fire Inspector and Fire Officer 1 certifications. They continue to work on their Associates Degree and other required classes.
  - The total amount of new personnel hired since the new levy will be 22 with the addition of the three new Firefighters. Some of these positions have filled open positions.
- New Fire Station 304 - Continuing
  - Property was purchased in 2011 at 821 Cheshire Rd. The property was leased out and the lease moved out on November 30, 2013. In 2014, we plan to begin the analysis and plans for an anticipated groundbreaking in 2016.
  - The opening of this Station is dependent on the increased staffing. This will be accomplished through the use of Part-Time personnel to supplement the staffing. The Part-Time personnel will be backfilling the open positions caused by personnel scheduled leaves.
- Fire Station 303 - Completed
  - On September 27, 2014 we began operation 24/7. The Fire Station was dedicated on October 19.

**Council for Older Adults – Monthly Report on the Firehouse Coordinator**

<b>2015 FIRST Location Data for City of Delaware</b>		
<b>Month</b>	<b>October</b>	<b>TOTALS YTD</b>
Referrals	54	346
DFD FIRST Coordinator	44	290
DFD Personnel	10	41
Other Agency	0	15
# of New COA-Enrolled	1	8
Total FIRST Contacts	126	1623
# of Individuals Served	51	607
# on New Individuals Served	23	425
City of Delaware Residents Served	50	555
Individuals with New Service	1	45
Services Provided	1	46
Home Delivered Meals	0	8
Shelf Stable Meals	0	1
Emergency Alert Unit Provided	0	9
Medication Dispenser	0	2
Incontinence Products	0	2
Durable Medical Equipment	0	6
In-Home Support	0	13
Other	0	5

## **2015 City Rec Report from Delaware Community Center YMCA**

### **Sports/Enrichment/Wellness/Special Events**

2015 saw an increase in programs that were offered. In addition to our past programs we now offered youth soccer, youth and adult golf lessons, soccer clinics, and tennis lessons. All of these programs had numbers which allowed us to have the program and encouraged us to build upon it. We will continue to evaluate current programs and add new programs in 2016 to ensure we are offering a wide variety of quality programs. We look to capitalize on the opportunity with the guard facility and continue to grow our program offerings to our community.

### **Jack Florance Pool**

2015 was another year of improvements and growth for Recreation Services. This year your pass to Jack Florance Pool was included in your Y membership. This was very well received and we had a lot of positive feedback about it. This year the leadership at the pool improved to a new level. We also listened to the feedback from the previous years and added more seating and shade structures. The additions were well received and added not only functionality, but also a nice bit of color. The overall feedback for the summer came back much more positive than years past. Our Y will continue to make progress and improvements that will better our service to those utilizing the pools. The leadership of Jackie Walker was advantageous to our improvements this year and we would like to thank her for the extra time and efforts.

### **Rec. Programs Offered in 2015**

#### **Aquatics**

- Swim Lessons-145 participants
- Swim Team (DARTS)- they are their own non-profit
- Lifeguard Class – 18 participants
- Doggie Dive-in- 50+ dogs
- SCUBA – Did not run

#### **Sports**

- Youth Baseball/Softball-739 participants
- Adult Softball (summer)-28 teams
- Adult Softball (fall)-15 teams
- JumpStart Sports-225 participants
- Youth Flag Football-122 participants
- 3<sup>rd</sup>-6<sup>th</sup> Grade Basketball-173 participants
- Tennis Lessons-39 participants
- Youth Golf Lessons-11 participants
- Adult Golf Lessons-9 participants
- Adult Kickball - 10 teams (about 150 participants)
- Youth Soccer- 215 participants
- Adult Soccer- 6 teams one session and 4 teams another session (100 participants)

#### **Fitness**

- Youth Triathlon- 77 Participants
- Adult Triathlon- 89 Participants
- Pumpkin Run- 156 Participants

#### **Family Events**

- Easter Event- 600-700 Participants
- Calls from North Pole-70 calls made
- Harmony in the Park-2000 participants
- Movies at Mingo – 125 Participants (two were rained out)
- Daddy Daughter Dance-312 Participants
- Super Hero Party – 464 Participants
- Halloween Event (Mingo)-1000 Participants

#### **Youth Activities**

- Teen Leaders Club – 80 Participants
- Youth in Government – 12 Participants
- Fencing - 15 Participants
- Safety Town- 198 Participants

### **Rec Programs for 2016**

#### **Aquatics**

- Swim Lessons
- Doggie Dive in
- Lifeguarding Class
- SCUBA

#### **Sports**

- Youth Baseball/Softball
- Adult Softball (Summer)
- Adult Softball (Fall)
- Adult Kickball
- Adult Soccer
- JumpStart Sports (includes: basketball, soccer, baseball, multi-sport, etc.)
- Skyhawks Sports( multi sport, basketball etc)
- Youth Flag Football
- Adult Dodgeball
- Golf Lessons (youth and adult)
- Youth Basketball
- Tennis Lessons
- Pickleball

#### **Fitness**

- Youth Triathlon
- Adult Triathlon
- Pumpkin Run 5K

### Family Events

- Safety Town
- Easter Event
- Halloween Event
- Calls from North Pole
- Super Hero Party
- Mingo Summer Lock-In
- Harmony In The Park
- Daddy/Daughter Dance

### Youth Activities

- Guitar Lessons
- Teen Leader Club
- Youth in Government
- Fencing Class
- Intro to Kayak

### Financial report

<u>Item</u>	<u>Revenue</u>	<u>Expense</u>
<b>Family Events</b>		
· Daddy Daughter Dance	\$3,795.00	\$2367
· Super Hero Party	\$5510.50	\$3819
· Easter Egg Hunt	\$0.00	\$1188
· North Pole	\$0.00	\$0.00
· Movies@ Mingo	\$0.00	\$297.23
· Harmony in the Park	\$0.00	\$0.00
· Halloween	\$0.00	\$2,656
· Safety Town	\$6891.50	\$3085
<b>Youth Activities</b>		
· Fencing	\$2000.00	\$1400.00
<b>Fitness</b>		
· Adult & Youth Triathlon	\$4,970.00	\$4,103.00
· Pumpkin Run	\$4,145.00	\$1,900.00
(Proceeds went to Delaware Community Center Livestrong Program)		
<b>Sports</b>		
· AD Softball(Fall & Summer)	\$13,500.00	\$8,722.00
· Youth Baseball/Softball	\$30,975.75	\$28,804
· Youth Flag Football	\$4,235	\$1,380.00

· 3-6 Basketball	\$7,543.91	\$4,632.00 (2014 expenses we won't have final numbers until the league is over in 2016)
· Youth Soccer	\$8,444.90	\$5,469.33
· Adult Soccer	\$2,290.00	\$926.60
· Adult Golf Lessons	\$630	\$498
· Youth Golf Lessons	\$660	\$519

**Miscellaneous**

· Sponsorships	\$5,450	
· Front Desk @ Mingo		\$10,336.34
· Programs & Special Events		\$65,172.00
· Administration & Special Events		\$55,620.00
· Aquatics		\$21,100
· Building Supervisor @Mingo		\$55,464.99
· Mingo Building Rentals	\$38,095.01	

<u>Item</u>	<u>Revenue</u>	<u>Expense</u>
<b>Aquatics- Jack Florance Mingo Pool</b>		
· DARTS Pool Rental	\$7,239.75	n/a
· Swim Lessons/Swim Instructor	\$6,374.50	\$1,307.09
· Pool Memberships	\$33,739.90	
· Daily Passes	\$73,369.00	
· Concessions	\$29,033.22	\$15,570.02
· Mingo Pool Rentals	\$5,896.00	
· Aquatics- Management		\$22,844.67
· Lifeguards		\$56,811.47
· Misc. Expensive/Supplies		\$7,127.28
· Building Repair/Replacement		\$8,876.00
· Pool Supplies		\$13,894.97
· Maintenance & Repair Supplies		\$11,829.97
· Housekeeping and Cleaning Supplies		\$2,854.10
· Building and Grounds Contracted Repairs		\$1973.22
<b>Total</b>	<b>Revenue</b>	<b>Expense</b>
	<b>\$294,788.94</b>	<b>\$422,578.28</b>



## MEMORANDUM

**To:** Mayor Carolyn Riggle and Members of Delaware City Council  
**From:** The Community Promotions Committee  
**Date:** October 29, 2015  
**Subject:** Community Promotions Committee 2016 Recommendations

The Community Promotions Committee was charged with making non-profit funding recommendations to City Council following the process approved in 2015 by City Council. The Committee received applications from four groups:

- Delaware County Cultural Arts Center (The Arts Castle)
- The Second Ward Community Initiative (SWCI)
- Main Street Delaware
- Central Ohio Symphony

Each group was assessed on seven different pre-determined metrics. The possible maximum total was 145 points. Below is a brief summary of each group's submission, total average score from the Committee members and the recommended donation amount.

### **The Arts Castle**                      **102 points**

- Serves more than 5,000 people annually with 60 percent coming into the City from the county and state. Approximately 2,000 are City of Delaware residents
- More than 80 classes and workshops are offered in a unique and historic setting every quarter, supplemented by exhibits and special events thereby affording everyone access to a multi-arts experience.
- The grant will be used for ongoing support for building operation, maintenance and repair.
- Delaware County and private donors also contribute to the Arts Castle

2015 Award:                                      \$15,000  
*Entity Request:*                                \$20,000  
**Committee Recommendation:**            **\$15,000 Award**



