City Council Meeting Agenda

Monday, October 5, 2015 ~ 7:30 P.M.

Louis J. R. Goorey Worthington Municipal Building
John P. Coleman Council Chamber
6550 North High Street
Worthington, Ohio  43085

Bonnie D. Michael, President
Robert F. Chosy, President Pro-Tem
Rachael Dorothy
Scott Myers
David M. Norstrom
Douglas Smith
Michael C. Troper

Matthew H. Greeson, City Manager
D. Kay Thress, Clerk of Council

If you have questions regarding this agenda please contact the Clerk of Council at 614-786-7347. This agenda and amendments that may be made to it can be found at www.worthington.org
CALL TO ORDER

Roll Call

Pledge of Allegiance

VISITOR COMMENTS

PUBLIC HEARINGS ON LEGISLATION

1) Ordinance No. 31-2015

Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor and Declaring an Emergency.

Introduced July 20, 2015
P.H. September 8, 2015
Tabled

2) Ordinance No. 36-2015

An Ordinance Declaring Improvements to a Parcel of Real Property to be a Public Purpose; Declaring Such Property to be Exempt from Real Property Taxation; Requiring the Owner of that Parcel to Make Service Payments In Lieu of Taxes; Establishing an Urban Redevelopment Tax Increment Equivalent Fund; Authorizing the Execution of a Development Agreement; Authorizing the Execution of a Compensation Agreement; Authorizing Use of Service Payments for Costs of Certain Designated Improvements; and Providing Related Authorizations Pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43.

Introduced September 8, 2015
P.H. October 5, 2015
3) **Ordinance No. 38-2015**

To Amend Section 1123.105 and Section 1147.01 of the Codified Ordinances of the City of Worthington to Add a Definition for Breweries, Distilleries and Wineries and to Add the Use as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District and General Industrial (I-2) Zoning District while deleting Distilleries and Breweries as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District.

Introduced September 21, 2015
P.H. October 5, 2015

4) **Ordinance No. 39-2015**

To Amend Section 1173.10(a) and 1173.10(b) of the Codified Ordinances of the City of Worthington to Permit Building Service Equipment to be Located in the Side Yard with Screening, Regardless of Distance from the Side Property Line.

Introduced September 21, 2015
P.H. October 5, 2015

**NEW LEGISLATION TO BE INTRODUCED**

5) **Resolution No. 47-2015**

Authorizing the Award of Re-emergent Corridor Assistance Program Funds to Help Improve Facility Exterior Facade and Streetscape Along Certain of the City’s Commercial Corridors (7046 Worthington-Galena Road).

6) **Ordinance No. 40-2015**

Amending Chapter 922 of the Codified Ordinances of the City Regulating Residential On-Site Sewage Disposal Facilities.
7) **Ordinance No. 41-2015**

Authorizing the Issuance of Not to Exceed $4,440,000 of Bonds for the Purpose of Currently Refunding a Portion of Bonds Issued in 2005 for the Purpose of Advance Refunding a Portion of Bonds Issued in 2001, and Authorizing and Approving Related Matters.

8) **Ordinance No. 42-2015**

Enacting Part Seventeen – Title Two of the Codified Ordinances of the City Regarding Municipal Income Tax.

**REPORTS OF CITY OFFICIALS**

Policy Item(s)

9) Appointment of Charter Review Commission

**REPORTS OF COUNCIL MEMBERS**

**OTHER**

**EXECUTIVE SESSION**

**ADJOURNMENT**
City Manager Report to City Council for the Meeting of Monday, October 5, 2015

PUBLIC HEARINGS ON LEGISLATION

1) Ordinance No. 31-2015 – Accepting the Amounts and Rates and Authorizing the Necessary Tax Levies

This Ordinance accepts the tax rates and amounts as determined by the Franklin County Budget Commission. These rates and amounts are based on the tax budget that was submitted in July. The property tax rate remains unchanged for 2016, which consists of 2.5 mills of inside millage and 2.5 mills of charter millage. This is an annual action by the City as required by State law and the rates and amounts are based on the tax budget that was submitted in July. The Ordinance needs to be amended to insert the amounts and rates.

Recommendation: Approval of Ordinance as Amended (Insert the numbers and Remove the Emergency Language)

2) Ordinance No. 36-2015 – Tax Increment Financing (TIF) – 350 W. Wilson Bridge Road

Staff has been in discussions about a tax increment financing (TIF) arrangement for the property at 350 W. Wilson Bridge Road. Under the TIF, 75 percent of the property taxes on the improved value of the property would be redirected into a TIF fund for a period of ten years. The TIF is proposed to provide revenues, as they are received, to reimburse the developer for costs associated with the installation of fire suppression equipment and to make the property compliant with the Americans with Disabilities Act. The TIF is projected to provide an average of $110,000 per year during the term of the TIF once the proposed development is complete.

State law requires the TIF legislation be adopted after the City is in the chain of title for the property, which occurred on October 1, 2015. Additional information regarding the
proposed TIF is included in the attached memorandum from the former Economic Development Manager.

The Ordinance needs to be amended to make it more consistent with the TIF agreement, including revisions to names and updating the effective date. The Law Director is prepared to discuss these changes at the meeting.

**Recommendation:** Approval of Ordinance as Amended

3) **Ordinance No. 38-2015 – Amend Codified Ordinances – Breweries, Distilleries and Wineries**

Distilleries and breweries are currently allowed as a Conditional Use in the I-2 Zoning District only, however the use is not defined. This proposed change to the Codified Ordinances would define Breweries, Distilleries and Wineries and add the use as a Conditional Use in the I-1 Restricted Light Industrial and I-2 General Industrial Zoning Districts. The existing “Distilleries and breweries” would be eliminated from the I-2 District. The Municipal Planning Commission reviewed this change and unanimously recommended approval. Additional information is provided in the attached memorandum from the Director of Planning & Building.

**Recommendation:** Approval of Ordinance as Presented

4) **Ordinance No. 39-2015 – Amend Codified Ordinances – Building Service Equipment**

The Code change allows building service equipment such as air conditioning units, generators, condensing units, chiller units to be located in the side yard with screening regardless of the distance from the side property line. The Architectural Review Board would still review the placement of new equipment on properties within the Architectural Review District.

Air conditioning units are allowed in the rear yard, or in the side yard as long as they are screened and outside of the setback area. Many units were originally installed before the Code was in place and extend into the side yard setback area. This results in the need for numerous variance requests when the units are replaced, every one of which (except for one with extenuating circumstances involving an easement) has been approved by the Board of Zoning Appeals in the last ten years. This Code change will eliminate the need for the variance. The Municipal Planning Commission has reviewed this change and recommends approval with the following condition:

Section 1173.10(b) be modified to state that the plantings shall not be less than the height of the equipment.
The proposed Code language incorporates this condition. Additional information is provided in the attached memorandum from the Director of Planning & Building.

**Recommendation:** Approval of Ordinance as Presented

### NEW LEGISLATION TO BE INTRODUCED

#### 5) Resolution No. 47-2015 – ReCAP Application – 7046 Worthington Galena Road

This Resolution approves the award of $19,537 in assistance to Chad Roberts for improvements to the property at 7046 Worthington Galena Road. The proposed assistance is structured as half grant and half loan. The Re-Emergent Corridor Assistance Program (ReCAP) encourages investments in and improvements to commercial real estate in the Huntley and Proprietors Roads area. Chad Roberts has applied for assistance under this program. The Community Improvement Corporation has reviewed the application and expressed support. Additional information is provided in the attached memorandum from the former Economic Development Manager and presentation slides.

**Recommendation:** Approval of Resolution as Presented

#### 6) Ordinance No. 40-2015 – On-Site Sewage Disposal Regulations

Changes need to be made to the City’s regulations regarding Home Sewerage Treatment Systems, also known as on-site sewage disposal systems. This applies to residential properties that are not connected to the sanitary sewer system. These changes are necessary due to changes in State law. The City contracts with the Columbus Public Health to conduct the program and the regulations require an operating permit issued by the Columbus Board of Health. The Ordinance adopts the Columbus City Health Code related to that permit. Additional information is provided in the attached memorandum from the Assistant to the Director of Service & Engineering.

**Recommendation:** Introduction for Public Hearing on October 19, 2015

#### 7) Ordinance No. 41-2015 – Issuance of Refunding Bonds

This Ordinance authorizes the refunding of the general obligation bonds originally issued in 2001 for the Community Center addition and the Police Building. A portion of the bonds were refunded in 2005 and those bonds are able to be called or redeemed for the first time this year. The interest rate is favorable so staff is recommending the refunding to capture a lower interest rate on the outstanding balance on the bonds. Additional information is provided in the attached memorandum from the Finance Director.

**Recommendation:** Introduction for Public Hearing on October 19, 2015
8) **Ordinance No. 42-2015 – Amendments to Income Tax Code**

Staff briefed the City Council on September 14, 2015 on the need for the adoption of a new municipal income tax ordinance to be effective for tax years beginning January 1, 2016 due to changes in State law. This Ordinance adopts the new code. Additional information is provided in the attached memorandum from the Finance Director.

**Recommendation:** Introduction for Public Hearing on October 19, 2015

**REPORTS OF CITY OFFICIALS**

**Policy Item(s)**

9) **Appointment of Charter Review Commission**

The City’s Charter requires the City Council appoint a Charter Review Commission at least every ten years “to review th[e] Charter and recommend any Charter amendments which it deems necessary or appropriate.” In order to keep with the every ten years cycle, the City Council is due to appoint a Commission in 2016. This agenda item is scheduled to begin the discussion related to the Charter Review Commission.

**EXECUTIVE SESSION**
ORDINANCE NO. 31-2015

Accepting the Amounts and Rates as Determined by the Budget Commission and Authorizing the Necessary Tax Levies and Certifying Them to the County Auditor and Declaring an Emergency.

WHEREAS, this Council in accordance with the provisions of law has previously adopted a Tax Budget for the next succeeding fiscal year beginning January 1, 2016; and,

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

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, Franklin County, State of Ohio, six-sevenths of the members elected thereto herein concurring that the amounts and rates as determined by the Budget Commission in its certification, be and the same are hereby accepted; and be it further ordained that there be and is hereby levied on the tax duplicate of said City the rate of each tax necessary to be levied within and without the ten mill limitation for tax year 2015 (collection year 2016) as follows:

SCHEDULE A

SECTION 1. Summary of amounts required from General Property Tax approved by the Budget Commission and County Auditor’s estimated tax rates.

<table>
<thead>
<tr>
<th></th>
<th>Amount to be Derived from 10 Mill Limitation</th>
<th>Amount Approved by Budget Commission Inside 10 Mill Limitation</th>
<th>County Auditor’s Estimate of Full Tax Rate to be Levied Inside Limitation</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Fund</td>
<td>$</td>
<td>$_________</td>
<td>2.03</td>
</tr>
<tr>
<td>General Fund Charter</td>
<td>_________</td>
<td></td>
<td>2.50</td>
</tr>
<tr>
<td>Bond Retirement</td>
<td>_________</td>
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<tr>
<td>Police Pension</td>
<td>_________</td>
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<td>0.30</td>
</tr>
<tr>
<td>TOTAL</td>
<td>$</td>
<td>$_________</td>
<td>2.50 2.50</td>
</tr>
</tbody>
</table>
ORDINANCE NO. 31-2015

AND BE IT FURTHER ORDAINED:

SECTION 2. That the Clerk of Council be and hereby is directed to certify a copy of this ordinance to the County Auditor of Franklin County.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure necessary for the preservation of the public health, safety and welfare, and notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed __________

President of Council

Attest:

Introduced July 20, 2015
P.H. September 8, 2015
Tabled

Clerk of Council
ORDINANCE NO. 36-2015
(As Amended)

An Ordinance Declaring Improvements to a Parcel of Real Property to be a Public Purpose; Declaring Such Property to be Exempt from Real Property Taxation; Requiring the Owner of that Parcel to Make Service Payments In Lieu of Taxes; Establishing an Urban Redevelopment Tax Increment Equivalent Fund; Authorizing the Execution of a Tax Increment Financing Agreement; Authorizing the Execution of a Compensation Agreement; Authorizing Use of Service Payments for Costs of Certain Designated Improvements; and Providing Related Authorizations Pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43.

WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.41, 5709.42 and 5709.43 (the “TIF Statutes”) provide that this Council may, under certain circumstances, declare improvements to certain parcels of real property to be a public purpose (the “Improvements”, as further defined in ORC Section 5709.41 and below) thereby exempting those Improvements from real property taxation, provide for payments in lieu of taxes by the owners of the parcels, and establish an urban redevelopment tax increment equivalent fund (the “TIF Fund” as defined below), provided the City has held fee title to such real property prior to the adoption of this Ordinance providing for the exemption; and,

WHEREAS, this Council desires to encourage the redevelopment of the parcel of real property described and depicted on EXHIBIT A attached to this Ordinance (the “Property”) to further the economic development goals of the City in a manner that is consistent with the existing neighborhood; and,

WHEREAS, provided appropriate economic development incentives are available to support the economic viability of the construction, Trivium Worthington LLC (the “Company”) desires to purchase and completely renovate approximately 53,200 square feet of office space, substantially re-grading exterior parking facilities and creating handicap accessible facilities at a long-vacant single-tenant office building situated on the Property (the “Project”); and,

WHEREAS, in connection with the construction of the Project, the City and the Company desire to execute a Tax Increment Financing Agreement substantially in the form on file with the City (the “TIF Agreement”), which would provide for the construction of the Project and for the financing of certain designated improvements, as further described on EXHIBIT B attached hereto and incorporated herein by this reference (the “Designated Improvements”); and,
ORDINANCE NO. 36-2015
(As Amended)

WHEREAS, the City seeks to increase employment opportunities and to encourage establishment of new jobs in the City, in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and,

WHEREAS, in connection with the redevelopment of the Property and the construction of the Project, it is in the best interest of the City to declare the Improvements to the Property to be a public purpose and to provide an exemption from real property taxes as set forth in this Ordinance; and,

WHEREAS, it is necessary and appropriate and in the best interests of the City to provide for the payment of service payments in lieu of taxes ("Service Payments") by the current and future owners of the Property (each an "Owner," and collectively, the "Owners") with respect to the Improvements pursuant to ORC Section 5709.42; and,

WHEREAS, as authorized by Ordinance No. 33-2015 passed September 8, 2015, the City acquired from the Owner fee title to the Property, pursuant to a Quitclaim Deed recorded with the Franklin County Recorder’s Office, and, pursuant to a Quitclaim Deed, has conveyed the Property back to the Owner; and,

WHEREAS, notice of this Council’s intention to declare the Improvements exempt from real property taxes and to pass this Ordinance has been delivered to the Board of Education of the Worthington City School District (the "Board") in accordance with ORC Sections 5709.41 and 5709.83, and this Council ratifies and affirms the delivery of said notice; and,

WHEREAS, both the Board and the City have indicated their intention to enter into a mutually acceptable Compensation Agreement substantially in the form on file with the City (the "Compensation Agreement"); and,

WHEREAS, this Council desires that the Project be constructed, pursuant to the terms of the TIF Agreement; and,

WHEREAS, this Council is willing to finance a portion of the costs of constructing the Designated Improvements, as provided in the TIF Agreement; and,

WHEREAS, this Council desires that a portion of the costs of the Designated Improvements and related expenses be paid from the Service Payments made in respect of the Improvements;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:
SECTION 1. Pursuant to and in accordance with the provisions of the TIF Statutes, this Council hereby determines and finds that it is in the best interests of the City to declare the Improvements to the Property to be a public purpose and to grant an exemption from real property taxes on those Improvements. This Council finds and determines that 75% of the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City (which increase in assessed value is the “Improvements” as defined in ORC Section 5709.41(A)(2), is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing with the first day of the first tax year after the effective date of this Ordinance in which any Improvement that is attributable to the construction under the Project on the Property first appears on the tax list and duplicate of real and public utility property and ending ten (10) years after such date, all in accordance with the requirements of ORC Sections 5709.41 and 5709.42.

SECTION 2. As provided in ORC Section 5709.42, the Owner of the parcel comprising the Property is hereby required to, and shall make, Service Payments to the Treasurer of Franklin County (the “County Treasurer”) on or before the final dates for payment of real property taxes without penalty or interest, which Service Payments shall be remitted to the City for deposit in the TIF Fund, pursuant to ORC Sections 5709.41 and 5709.42 and as provided in Section 4 of this Ordinance. Each Service Payment shall be in the same amount as the real property taxes that would have been charged and payable against the Improvements (after credit for any other payments received by the City under ORC Section 319.302) had an exemption from taxation not been granted, and otherwise shall be in accordance with the requirements of the TIF Statutes. Any late Service Payments shall be subject to penalty and bear interest at the then current rate established under ORC Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time (the payment of penalties and interest and any related amounts received by the City under ORC Section 319.302 shall be considered part of the Service Payments). The Service Payments shall be allocated and deposited in accordance with Section 4 of this Ordinance.

SECTION 3. This Council finds and determines that the Improvements will directly benefit the Property and the City.

SECTION 4. This Council hereby authorizes and directs the Director of Finance to establish pursuant to and in accordance with the provisions of ORC Section 5709.43(B), the 350 West Wilson Bridge Road Urban Redevelopment Tax Increment Equivalent Fund (the “TIF Fund”) to be maintained in the custody of the City. The TIF Fund shall receive all Service Payments made in respect of the Improvements which are received by the City from the County Treasurer in accordance with this Ordinance.
ORDINANCE NO. 36-2015
(As Amended)

The Service Payments received by the City shall be deposited into the TIF Fund and used (i) first, to pay the City’s customary and reasonable costs related to the exercise of its rights and the discharge of its obligations under the TIF Statutes, this Ordinance, the TIF Agreement and all other related laws, agreements and undertakings, (ii) second, to make payments to the Board as described in the Compensation Agreement, (iii) third, to pay the costs of the construction of the Designated Improvements as described in the TIF Agreement, and (iv) fourth, if any Service Payments remain in the TIF Fund after the payments described in (i) – (iii) above, to make payments to the City to be used for any lawful purpose.

The TIF Fund shall remain in existence so long as the Service Payments are collected and used for the aforesaid purposes, after which the TIF Fund shall be dissolved in accordance with ORC Section 5709.43(D). Upon such dissolution, any incidental surplus remaining in the TIF Fund shall be disposed as provided in ORC Section 5709.43(D).

SECTION 5. The City Manager is hereby authorized to execute the TIF Agreement on behalf of the City substantially in the form on file with the City, which TIF Agreement includes provisions regarding the construction of the Project and the Designated Improvements providing for, among other things, the payment of Service Payments with respect to the Property and the use of the TIF Funds, together with such revisions or additions thereto as approved by the City Manager as consistent with the objectives and requirements of this Ordinance, which approval shall be conclusively evidenced by the signing of said TIF Agreement. The City Manager and other appropriate City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all other things as are necessary for and incidental to carrying out the provisions of the TIF Agreement.

SECTION 6. The City Manager is hereby authorized to execute on behalf of the City the Compensation Agreement between the City and the Board substantially in the form on file with the City, which Compensation Agreement shall provide the exemption benefit to the Company up to $3,850,000 in the Franklin County Auditor’s appraised value of improvements; any amount of taxes associated with improvement valuation exceeding that threshold shall be paid by the City to the Schools in the amount otherwise due. This Council’s authorization hereunder shall include the City Manager executing such revisions or additions to the Compensation Agreement as approved by the City Manager as consistent with the objectives and requirements of this Ordinance, which approval shall be conclusively evidenced by the signing of said Compensation Agreement. The City Manager and other appropriate City officials are further authorized to provide such information and to execute, certify or furnish such other documents, and to do all other things as are necessary for and incidental to carrying out the provisions of the Compensation Agreement.
ORDINANCE NO. 36-2015
(As Amended)

SECTION 7. The City Manager, the Director of Finance and the Director of Law, and any other City official, as appropriate, are each authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the transactions described in or contemplated by this Ordinance.

SECTION 8. Pursuant to ORC Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen days after its passage. On or before March 31st of each year that the exemption set forth in Section 1 hereof remains in effect, the City Manager shall prepare and submit, or cause to be prepared and submitted, to the Director of the Ohio Development Services Agency the status report required under ORC Section 5709.41(E).

SECTION 9. This Council finds and determines that all formal actions of this Council 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 that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 10. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ____________________

___________________________________
President of Council

Attest:

________________________________  P.H. October 5, 2015
Clerk of Council
EXHIBIT A

PROPERTY DESCRIPTION

Real property located at 350 West Wilson Bridge Road, Franklin County Auditor’s ID no. 100-005397-00, located within the City of Worthington, Franklin County.

The legal description as follows: 350 West Wilson Bridge Road, Officescape, Lot 4.

The parcel enumerated herein and any subsequent purported subdivisions and/or re-assigned parcel number identifications or street addresses shall constitute the “Property.”
EXHIBIT B

DESIGNATED IMPROVEMENTS

Designated Improvements are understood among the Parties to include the following: any and all renovation costs borne by the Company at the Property for purposes of fire suppression and related to making the building compliant with the Americans with Disabilities Act, which may include development costs such as elevators upgraded to medical office specifications; internal public-access restrooms; re-grading, repaving and improving the parking lot infrastructure to ADA requirements; rebuilding interior stairwells to ADA requirements; and reconstructing the western end of the facility for ADA-required access.

Construction of the Designated Improvements may also include:

- Demolition and/or environmental remediation required for such Designated Improvements;
- Professional fees, including architectural, design, engineering, contract administration, and legal costs;
- All inspection fees and other governmental fees related to the foregoing.
ORDINANCE NO. 36-2015

An Ordinance Declaring Improvements to a Parcel of Real Property to be a Public Purpose; Declaring Such Property to be Exempt from Real Property Taxation; Requiring the Owner of that Parcel to Make Service Payments In Lieu of Taxes; Establishing an Urban Redevelopment Tax Increment Equivalent Fund; Authorizing the Execution of a Development Agreement; Authorizing the Execution of a Compensation Agreement; Authorizing Use of Service Payments for Costs of Certain Designated Improvements; and Providing Related Authorizations Pursuant to Ohio Revised Code Sections 5709.41, 5709.42 and 5709.43.

WHEREAS, Ohio Revised Code (“ORC”) Sections 5709.41, 5709.42 and 5709.43 (the “TIF Statutes”) provide that this Council may, under certain circumstances, declare improvements to certain parcels of real property to be a public purpose (the “Improvements”, as further defined in ORC Section 5709.41 and below) thereby exempting those Improvements from real property taxation, provide for payments in lieu of taxes by the owners of the parcels, and establish an urban redevelopment tax increment equivalent fund (the “TIF Fund” as defined below), provided the City has held fee title to such real property prior to the adoption of this Ordinance providing for the exemption; and,

WHEREAS, this Council desires to encourage the redevelopment of the parcel of real property described and depicted on EXHIBIT A attached to this Ordinance (the “Property”) to further the economic development goals of the City in a manner that is consistent with the existing neighborhood; and,

WHEREAS, provided appropriate economic development incentives are available to support the economic viability of the construction, Trivium Development LLC, and any related entity formed for the specific purpose of developing said Property (the “Company”) desires to purchase and completely renovate approximately 53,200 square feet of office space, substantially re-grading exterior parking facilities and creating handicap accessible facilities at a long-vacant single-tenant office building situated on the Property (the “Project”); and,

WHEREAS, in connection with the construction of the Project, the City and the Company desire to execute a Development Agreement substantially in the form on file with the City (the “Development Agreement”), which development agreement would provide for the construction of the Project and for the financing of certain Designated Improvements, as defined in the Development Agreement; and,

WHEREAS, the City seeks to increase employment opportunities and to encourage establishment of new jobs in the City, in order to improve the economic welfare of the City and its citizens, in furtherance of the public purposes enunciated in Article VIII, Section 13 of the Ohio Constitution; and,
WHEREAS, in connection with the redevelopment of the Property and the construction of the Project, it is in the best interest of the City to declare the Improvements to the Property to be a public purpose and to provide an exemption from real property taxes as set forth in this Ordinance; and,

WHEREAS, it is necessary and appropriate and in the best interests of the City to provide for the payment of service payments in lieu of taxes (“Service Payments”) by the current and future owners of the Property (each an “Owner,” and collectively, the “Owners”) with respect to the Improvements pursuant to ORC Section 5709.42; and,

WHEREAS, as authorized by Ordinance No. 33-2015 passed September 8, 2015, the City acquired from the Owner fee title to the Property, pursuant to a Quitclaim Deed recorded with the Franklin County Recorder’s Office, and, pursuant to a Quitclaim Deed, has conveyed said Property back to said Owner; and,

WHEREAS, notice of this Council’s intention to declare the Improvements exempt from real property taxes and to pass this Ordinance has been delivered to the Board of Education of the Worthington City School District (the “Board”) in accordance with ORC Sections 5709.41 and 5709.83, and this Council ratifies and affirms the delivery of said notice; and,

WHEREAS, both the Board and the City have indicated their intention to enter into a mutually acceptable Compensation Agreement substantially in the form on file with the City (the “Compensation Agreement”); and,

WHEREAS, this Council desires that the Project be constructed, pursuant to the terms of the Development Agreement; and,

WHEREAS, this Council is willing to finance a portion of the costs of constructing the Designated Improvements, as provided in the Development Agreement; and,

WHEREAS, this Council desires that a portion of the costs of the Designated Improvements and related expenses be paid from the Service Payments made in respect of the Improvements;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:
ORDINANCE NO. 36-2015

SECTION 1. Pursuant to and in accordance with the provisions of the TIF Statutes, this Council hereby determines and finds that it is in the best interests of the City to declare the Improvements to the Property to be a public purpose and to grant an exemption from real property taxes on those Improvements. This Council finds and determines that 75% of the increase in the assessed value of the Property subsequent to the acquisition of the Property by the City (which increase in assessed value is the “Improvements” as defined in ORC Section 5709.41(A)(2), which Improvements are further described on EXHIBIT B attached hereto and incorporated herein by this reference) is hereby declared to be a public purpose, and shall be exempt from taxation for a period commencing on the effective date of this Ordinance and ending ten (10) years after such date, all in accordance with the requirements of ORC Sections 5709.41 and 5709.42.

SECTION 2. As provided in ORC Section 5709.42, the Owner of the parcel comprising the Property is hereby required to, and shall make, Service Payments to the Treasurer of Franklin County (the “County Treasurer”) on or before the final dates for payment of real property taxes without penalty or interest, which Service Payments shall be remitted to the City for deposit in the TIF Fund, pursuant to ORC Sections 5709.41 and 5709.42 and as provided in Section 4 of this Ordinance. Each Service Payment shall be in the same amount as the real property taxes that would have been charged and payable against the Improvements (after credit for any other payments received by the City under ORC Section 319.302) had an exemption from taxation not been granted, and otherwise shall be in accordance with the requirements of the TIF Statutes. Any late Service Payments shall be subject to penalty and bear interest at the then current rate established under ORC Sections 323.121(B)(1) and 5703.47, as the same may be amended from time to time, or any successor provisions thereto, as the same may be amended from time to time (the payment of penalties and interest and any related amounts received by the City under ORC Section 319.302 shall be considered part of the Service Payments). The Service Payments shall be allocated and deposited in accordance with Section 4 of this Ordinance.

SECTION 3. This Council finds and determines that the Improvements will directly benefit the Property and the City.

SECTION 4. This Council hereby authorizes and directs the Director of Finance to establish pursuant to and in accordance with the provisions of ORC Section 5709.43(B), the 350 West Wilson Bridge Road Urban Redevelopment Tax Increment Equivalent Fund (the “TIF Fund”) to be maintained in the custody of the City. The TIF Fund shall receive all Service Payments made in respect of the Improvements which are received by the City from the County Treasurer in accordance with this Ordinance.

The Service Payments received by the City shall be deposited into the TIF Fund and used (i) first, to pay the City’s customary and reasonable costs related to the exercise of its rights and the discharge of its obligations under the TIF Statutes, this Ordinance,
ORDINANCE NO. 36-2015

the Development Agreement and all other related laws, agreements and undertakings, (ii)
second, to make payments to the Board as described in the Compensation Agreement, (iii)
third, to pay the costs of the construction of the Designated Improvements as
described in the Development Agreement, and (iv) fourth, if any Service Payments
remain in the TIF Fund after the payments described in (i) – (iii) above, to make
payments to the City to be used for any lawful purpose.

The TIF Fund shall remain in existence so long as the Service Payments are
collected and used for the aforesaid purposes, after which the TIF Fund shall be dissolved
in accordance with ORC Section 5709.43(D). Upon such dissolution, any incidental
surplus remaining in the TIF Fund shall be disposed as provided in ORC Section
5709.43(D).

SECTION 5. The City Manager is hereby authorized to execute the Development
Agreement on behalf of the City substantially in the form on file with the City, which
Development Agreement includes provisions regarding the construction of the Project and
the Designated Improvements providing for, among other things, the payment of Service
Payments with respect to the Property and the use of the TIF Funds, together with such
revisions or additions thereto as approved by the City Manager as consistent with the
objectives and requirements of this Ordinance, which approval shall be conclusively
evidenced by the signing of said Development Agreement. The City Manager and other
appropriate City officials are further authorized to provide such information and to
execute, certify or furnish such other documents, and to do all other things as are
necessary for and incidental to carrying out the provisions of the Development
Agreement.

SECTION 6. The City Manager is hereby authorized to execute on behalf of the
City the Compensation Agreement between the City and the Board substantially in the
form on file with the City, which Compensation Agreement shall provide the exemption
benefit to the Company up to $3,850,000 in the Franklin County Auditor’s appraised
value of improvements; any amount of taxes associated with improvement valuation
exceeding that threshold shall be paid by the City to the Schools in the amount otherwise
due. This Council’s authorization hereunder shall include the City Manager executing
such revisions or additions to the Compensation Agreement as approved by the City
Manager as consistent with the objectives and requirements of this Ordinance, which
approval shall be conclusively evidenced by the signing of said Compensation
Agreement. The City Manager and other appropriate City officials are further authorized
to provide such information and to execute, certify or furnish such other documents, and
to do all other things as are necessary for and incidental to carrying out the provisions of
the Compensation Agreement.
ORDINANCE NO. 36-2015

SECTION 7. The City Manager, the Director of Finance and the Director of Law, and any other City official, as appropriate, are each authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the transactions described in or contemplated by this Ordinance.

SECTION 8. Pursuant to ORC Section 5709.41(E), the Clerk of this Council is hereby directed to deliver a copy of this Ordinance to the Director of the Ohio Development Services Agency within fifteen days after its passage. On or before March 31st of each year that the exemption set forth in Section 1 hereof remains in effect, the City Manager shall prepare and submit, or cause to be prepared and submitted, to the Director of the Ohio Development Services Agency the status report required under ORC Section 5709.41(E).

SECTION 9. This Council finds and determines that all formal actions of this Council 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 that resulted in those formal actions were in meetings open to the public in compliance with the law.

SECTION 10. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ______________________

___________________________________
President of Council

Attest:

________________________________  P.H. October 5, 2015
Clerk of Council

Introduced September 8, 2015
P.H. October 5, 2015
EXHIBIT A

PROPERTY DESCRIPTION

Real property located at 350 West Wilson Bridge Road, Franklin County Auditor’s ID no. 100-005397-00, located within the City of Worthington, Franklin County.

The legal description as follows: 350 West Wilson Bridge Road, Officescape, Lot 4.

The parcel enumerated herein and any subsequent purported subdivisions and/or re-assigned parcel number identifications or street addresses shall constitute the “Property.”
EXHIBIT B

IMPROVEMENTS

The TIF shall reimburse Trivium Development LLC and any related entity formed for the specific purpose of developing the Property (the “Company”) for any and all renovation costs borne at the Property for purposes of fire suppression and related to making the building compliant with the Americans with Disabilities Act (“ADA”), which may include development costs such as the following: elevators upgraded to medical office specifications; internal public-access restrooms; re-grading, repaving and improving the parking lot infrastructure to ADA requirements; rebuilding interior stairwells to ADA requirements; and reconstructing the western end of the facility for ADA-required access.
MEMORANDUM

TO: Matt Greeson

FROM: Jeffry Harris

DATE: August 26, 2015

SUBJECT: Urban Redevelopment TIF proposal for 350 West Wilson Bridge Road

I write to provide background and staff recommendation as to placing an “urban redevelopment” tax increment financing (TIF) exemption on the proposed redevelopment of the former Mettler Toledo headquarters building on West Wilson Bridge Road in Worthington. Staff recommends that Worthington City Council approve a 75 percent TIF for a term of 10 years.

Background:

The recommended urban redevelopment TIF is intended to capture taxes paid on the value of proposed improvements to 350 West Wilson Bridge Road (the “Property”). The City’s development interest in this property is long-standing, dating back to the early 2000s when Mettler-Toledo moved its Worthington headquarters operation to the Polaris area, leaving behind this large single-use tenant space. More recently, the Property was purchased by Canadian buyers as part of a portfolio of commercial office space within the region; earlier this year, a local real estate broker was charged with placing the Property for-sale on the open market ($1.95 million asking price).

As you are well aware, substantial redevelopment and investment has occurred within walking distance of the Property along West Wilson Bridge Road. Through presentations, phone calls and marketing collateral material, the City has publicly sought to partner financially with private development interests to bring the Property back to market viability and commercial use.

In April 2015, Trivium Development LLC (“Trivium”) entered into a purchase agreement with the owners to acquire the Property and fully renovate its 53,200 square feet of interior space and exterior parking facilities into high-quality multi-tenant medical office space (the “Project”). (See Appendix I for an elevation rendering of the Project.) Trivium plans to close on the Property’s purchase in early September.
The Project is expected to involve a total investment by Trivium, or a related entity created for purposes of owning and developing the Property, of approximately $5.8 million. Included in this investment is the $1.95 million to be paid for the Property, with $3.85 million in estimated new constructions costs.

The Project will commence fall 2015, with all construction and improvements likely completed by December 31, 2016.

Discussions between the developer and City staff resulted in the following recommended TIF assistance package: as they are received, TIF revenues will be paid by the City to reimburse costs borne by the developer for purposes of installing fire suppression equipment throughout the facility and to make the Property compliant with the Americans with Disabilities Act.

Figure 1: Proposed 350 West Wilson Bridge Road TIF

TIF Exemption – Structure:

Under State law, municipalities may employ three types of tax increment financing for economic development projects: parcel; district; and urban redevelopment TIF. As this project involves the need for the City to participate in the costs of making improvements within the facility to make the Property usable to the public, staff believes that an urban redevelopment TIF represents the best mechanism to declare improvements a public purpose and fund public infrastructure benefitting the Property.

The real estate parcel under this project to be TIF’ed is Franklin County Auditor ID no. 100-005397-00.
Urban Redevelopment TIF Requirements

The following are required to create an urban redevelopment TIF under Ohio Revised Code (“ORC”) §5709.41:

☐ Worthington City Council must adopt an ordinance declaring to be a public purpose any improvement to the identified parcel of real property. Staff recommends that Worthington City Council identify the parcel listed above as comprising property on which improvements will constitute a public purpose.

☐ Under the same legislation, Worthington City Council should specify that 75 percent of the improvements are exempt from real property taxes for 10 years.

☐ City Council must enter the chain of title to the Property prior to adopting the TIF enabling ordinance. Specifically, ORC §5709.41(B) states that a municipality may declare any improvement to the real property a public purpose, so long as the municipality held fee simple title prior to the adoption of the TIF’s enabling ordinance and the property was then conveyed away by the municipality.

To that end, staff has recommended that City Council adopt Ordinance 33-2015 on September 8, 2015 to take and convey title to the Property prior to the scheduled public hearing and vote to approve this proposed TIF on October 5.

☐ Because the proposed TIF seeks to exempt 75 percent of taxes for 10 years – the statutory minimum threshold – State law requires only that City Council provide notice to the Board of Education of Worthington City Schools (“Schools”) at least 14 days prior to adopting the ordinance (see ORC §5709.41(C)(4)). Staff has been in direct contact with the Schools on this issue well in advance of the City Council’s action and provided formal notice to the Schools on July 20, 2015 (see Appendix II).

☐ With the Schools, staff recommend the best mutual course for the Project is to enter into a compensation agreement that provides the full TIF exemption benefit to Trivium, but only up to $3.85 million in the Franklin County Auditor’s appraised value of improvements. Any amount of taxes associated with improvement valuation exceeding that threshold (i.e., taxes levied on the value equal to or exceeding $3,850,001) will be paid by the City to the Schools in the amount otherwise due. This arrangement between the City and Schools removes the applicability of the default compensation for municipal economic development projects employing real property tax exemptions (i.e., income tax sharing), set forth under ORC §5709.82(D).

☐ Worthington City Council must establish an urban redevelopment tax increment equivalent fund into which will be deposited annual service payments in lieu of taxes paid by the owner(s) of the TIF’ed property (see ORC §§5709.42 & 5709.43(B)).
It is recommended that the owner of the TIF parcel enter into a TIF agreement with the City setting forth the parties’ understanding of how the exemption is structured. Once such an agreement is fully executed, staff recommends that the City apply for the TIF exemption to the Franklin County Auditor on behalf of the owner of the exempted Property (see ORC §5709.911).

**TIF Exemption – Terms & Benefits:**

The proposed renovation and creation of new medical office space at the Property – transforming it into a high-quality multi-tenant office facility – represents a good source of incremental increase in property tax revenue. It also responds to the City’s long-standing efforts to obtain a new use for the Property since the former user left many years ago. Through the use of this proposed TIF, the City can capture and redirect tax revenue to assist with the substantial costs of installing fire suppression equipment and making the building accessible as required under the ADA.

Staff ran TIF revenue models to estimate the benefit to the developer from redirecting 75 percent of estimated property taxes on the incremental increase in valuation. This urban redevelopment TIF is estimated to produce an average $110,000 per year during the term, once the proposed development is completed.

As noted above, the property owner’s annual service payments – in amounts equivalent to the taxes otherwise due on the improved value of the land – are directed into the TIF fund. Such revenues will then be directed to reimburse the developer for the costs of renovating and rehabilitating this commercially obsolete structure that has remained vacant since the early 2000s.
West Wilson Bridge Road Perspective – looking northeast
APPENDIX II

Notice to Board of Education of Worthington City Schools

July 20, 2015

Julie Keegan, President  VIA EMAIL & US MAIL
Board of Education of Worthington City Schools
o/o Jeff McCuen, Treasurer
200 East Wilson Bridge Road
Worthington, Ohio 43085

Re: City of Worthington TIF Exemption Notice – 350 W. Wilson Bridge Rd.

Dear Ms. Keegan:

I write to provide the Board of Education of the Worthington City School District ("Board") with notice of a to-be-proposed urban redevelopment tax increment financing ("TIF") structure to exempt real property at 350 West Wilson Bridge Road in Worthington, Franklin County (Franklin County Auditor parcel ID 100-005397-00) (the "Property").

Pursuant to Ohio Revised Code ("ORC") §5709.83, and on behalf of the Worthington City Council, I am providing notice that the City contemplates declaring improvements to this parcel to be a public purpose and therefore partially exempt from taxes.

Project Scope

In April 2015, Trivium Development LLC ("Trivium") entered into a purchase agreement with the Canadian owners of the Property to acquire and fully renovate its 53,200 square feet of interior space and exterior parking facilities into high-quality multi-tenant medical and commercial office space (the "Project"). Trivium or its designee plans to close on the Property’s purchase in August.

The Project is expected to involve a total investment by Trivium of approximately $5.8 million. Included in this investment is $1.95 million to acquire the Property, with $3.85 million in new constructions costs.

The Project will commence fall 2015, with all construction and improvements likely completed by December 31, 2016.
City of Worthington TIF Exemption Notice
July 20, 2015
Page 2

As you may be aware, the City’s development interest in this property is long-standing, dating back to the early 2000s when the previous headquarters user relocated to the Polaris area, leaving behind this large single-use tenant space. In recent years, and through presentations, phone calls and marketing collateral material, the City has publicly sought to partner financially with private development interests to bring the Property back to market viability and commercial use.

TIF Exemption

Under the Project, Trivium is undergoing substantial redevelopment costs to completely renovate approximately 53,200 square feet of office space, substantially re-grading exterior parking facilities and creating handicap accessible facilities. City staff have determined that an urban redevelopment TIF will provide the best form of assistance to this redevelopment project (see ORC §5709.41). Namely, staff will recommend that the TIF reimburse Trivium for any and all renovation costs borne at the Property for purposes of fire suppression and related to making the building compliant with the ADA, which may include development costs such as the following: elevators upgraded to medical office specifications; internal public-access restrooms; re-grading, repaving and improving the parking lot infrastructure to ADA requirements; rebuilding interior stairwells to ADA requirements; and reconstructing the western end of the facility for ADA-required access.

Staff will recommend on September 21, 2015 that Worthington City Council create an urban redevelopment TIF to exempt 75 percent of the taxes on the value of improvements made to the Property, for a 10-year period.

Relative to your organization, this project represents an increase in revenues even with an approved TIF exemption. (See table, below)

<table>
<thead>
<tr>
<th>Worthington City Schools position</th>
<th>Tax Year 2014 Condition</th>
<th>Revenues</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Appraised Value</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,291,615</td>
<td>$ 32,734</td>
</tr>
<tr>
<td>2015 Purchase</td>
<td>FMV - basis adj.</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1,950,000</td>
<td>16,686</td>
</tr>
<tr>
<td>Non-TIF’ed collections</td>
<td>Appraised Value</td>
<td></td>
</tr>
<tr>
<td></td>
<td>3,850,000</td>
<td>24,510</td>
</tr>
<tr>
<td></td>
<td></td>
<td>$ 41,196</td>
</tr>
</tbody>
</table>
City of Worthington TIF Exemption Notice
July 20, 2015
Page 3

As you can see, the purchase by Trivium or its designee in August is expected to increase the taxable basis in the Property from $1.2 million (netting approximately $33,000 in annual property taxes to the Board in tax year 2014) to $1.95 million (which will provide an additional $16,686 in annual property taxes to the Board). Moreover, only 75 percent of the taxes are to be exempt under the TIF, which will result in a calculated $24,510 in net, new annual property taxes to the Board. Because of the positive tax implications to the Board resulting from this project, even with a TIF exemption in place, my proposed handling of the matter to Mr. McCuen has been to dispense with any compensation payment structure to the Board (i.e., no compensation to the Board during the term of the TIF exemption).

Mr. McCuen’s position, which is reasonable in the view of City staff, is that no compensation is due to the Board under this TIF for so long as the value of the improvements are less than or equal to $3.85 million. For any improvement value in excess of that figure, taxes assessed thereon will be directed to the Board as if no exemption were in place.

Request

Worthington City Council will take action at 7:30pm on September 21, 2015 to review staff recommendations and may adopt an ordinance declaring improvements to the Property to be a public purpose and therefore create an urban redevelopment TIF exemption. Staff has prepared a draft ordinance – to be introduced by City Council on September 8 – thereby creating the TIF exemption, a copy of which is attached for your reference. Please review this correspondence and provide a response, if any, to this notice.

Feel free to address any concerns or questions to me at (614) 436-4518 or via email at jharris@ci.worthington.oh.us.

Sincerely,

Jeffry Harris
Economic Development Manager

Enclosure

cc: Matt Greeson, City Manager
    Robyn Stewart, Asst. City Manager
    Molly Roberts, Finance Director
    Pam Fox, Law Director
ORDINANCE NO. 38-2015

To Amend Section 1123.105 and Section 1147.01 of the Codified Ordinances of the City of Worthington to Add a Definition for Breweries, Distilleries and Wineries and to Add the Use as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District and General Industrial (I-2) Zoning District while deleting Distilleries and Breweries as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District.

WHEREAS, it is the wish of City Council to monitor and revise the Planning and Zoning Code of the City to ensure economic viability and preserve the character of the City; and,

WHEREAS, the Municipal Planning Commission, on recommendation of City staff and the Code Review Committee unanimously passed a motion on September 10, 2015 to recommend approval to add a definition for Breweries, Distilleries and Wineries and to add the use as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District and the General Industrial (I-2) Zoning District, while deleting Distilleries and Breweries from the General Industrial (I-2) Zoning District; and,

WHEREAS, it is the desire of City Council to approve this amendment to accommodate this use where appropriate.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 1123.105 of the Codified Ordinances is amended to read as follows:

1123.105 BREWERIES, DISTILLERIES AND WINERIES.
A facility in which beer, wine or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption. It may include a tasting room and retail space for products produced on site and for the sale of ancillary products to customers.

SECTION 2. That Section 1147.01 of the Codified Ordinances be and hereby is amended by adding Breweries, Distilleries and Wineries as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District and the General Industrial (I-2) Zoning District, while deleting Distilleries and Breweries as a Conditional Use in the Restricted Light Industrial (I-1) Zoning District.
ORDINANCE NO. 38-2015

SECTION 3. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ____________________________

President of Council

Attest:

__________________________________

Clerk of Council

Introduced September 21, 2015
P.H. October 5, 2015
MEMORANDUM

TO: Matthew H. Greeson, City Manager

FROM: R. Lee Brown, Director

DATE: September 15, 2015

SUBJECT: Ordinance to Amend the Codified Ordinances of the City of Worthington to add a definition for Breweries, Distilleries and Wineries and to add the use as a Conditional Use in the Restricted Light Industrial (I-1) District and General Industrial (I-2) District. (AZP 03-15)

______________________________________________________________________________

Findings of fact & Conclusions

Background & Request:
There has been a recent increase in locally owned and operated craft breweries throughout the Country and Central Ohio. A request was received for a local microbrewery to relocate from the General Industrial (I-2) Zoning District to the Restricted Industrial – Office & Research (I-1) Zoning District. Distilleries and breweries are currently allowed as a Conditional Use in the I-2 Zoning District only, however the use is not defined.

Proposed Code Change:
The proposed Code change would define Breweries, Distilleries and Wineries and add the use as a Conditional Use in the I-1 and I-2 Zoning Districts. As a Conditional Use, the MPC would be able to review: traffic, public facilities, sewerage & drainage facilities, utilities, safety & health, noise, odors and other noxious elements, hours of use, shielding and screening and appearance and compatibility with the general neighborhood.

Also, the existing “Distilleries and breweries” would be eliminated from the I-2 Zoning District.

Proposed Code Language:
BREWERIES, DISTILLERIES AND WINERIES.
A facility in which beer, wine or other alcoholic beverages are brewed, fermented, or distilled for distribution and consumption. It may include a tasting room and retail space for products produced on site and for the sale of ancillary products to customers.

Add to Section 1147.01:
Add Breweries, Distilleries and Wineries as a Conditional Use in the I-1 & I-2 Zoning Districts.
Delete from Section 1147.01:
Delete Distilleries and breweries as a Conditional Use in the I-2 Zoning District.

Recommendations:
Staff is recommending approval of the Code amendment.

On September 10, 2015 the Municipal Planning Commission reviewed and unanimously recommended approval to City Council on an Ordinance to Amend the Codified Ordinances of the City of Worthington.
ORDINANCE NO. 39-2015

To Amend Section 1173.10(a) and 1173.10(b) of the Codified Ordinances of the City of Worthington to Permit Building Service Equipment to be Located in the Side Yard with Screening, Regardless of Distance from the Side Property Line.

WHEREAS, it is the wish of City Council to monitor and revise the Planning and Zoning Code of the City to ensure economic viability and preserve the character of the City; and,

WHEREAS, the Municipal Planning Commission, on recommendation of City staff and the Code Review Committee unanimously passed a motion on September 10, 2015 to recommend approval to amend Section 1173.10(a) and 1173.10(b) Location of Building Service Equipment to be located in the side yard with screening, regardless of distance from the side property line; and,

WHEREAS, it is the desire of City Council to approve this amendment to accommodate this use where appropriate.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Section 1173.10 of the Codified Ordinances is amended to read as follows:

1173.10 LOCATION OF BUILDING SERVICE EQUIPMENT:
(a) Any building service equipment, including air-conditioning or refrigeration system which includes an exterior compressor, cooling tower, condensing unit, chiller unit, absorber, or emergency generator, either singularly or in any combination of the above, or any other exterior device which expels heat and/or noise detectable from outside the premises on which such system is located shall be installed and maintained with such exterior unit located to the rear of the dwelling unit.

(b) The provisions of subsection (a) hereof notwithstanding, building service equipment may be located at the side of the dwelling, provided that the equipment shall be effectively screened on the front and sides by an evergreen hedge or dense planting of evergreen shrubs not less than the height of the equipment, or by a fence or wall of similar height conforming to Chapter 1180.
ORDINANCE NO. 39-2015

SECTION 2. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ______________

____________________________________
President of Council

Attest:                                                 Introduced September 21, 2015

____________________________________
P.H. October 5, 2015

Clerk of Council
MEMORANDUM

TO: Matthew H. Greeson, City Manager
FROM: R. Lee Brown, Director
DATE: September 15, 2015
SUBJECT: Ordinance to Amend Section 1173.10(a) and 1173.10(b) of the Codified Ordinances of the City of Worthington to permit Building Service Equipment to be located in the side yard with screening, regardless of distance from the side property line. (AZP 04-15)

Findings of fact & Conclusions

Background & Request:
Initially there was a provision in the Building Code requiring air conditioning units be located in the rear yard. After variances being granted repeatedly by the BZA, the Code was changed in the 1980’s to allow units in the side yard as long as they were screened and outside of the setback area. With adoption of the statewide Building Code in the 2000s, the provision was moved to the Planning and Zoning Code from the Building Code. In 2013, the title was changed to Building Services Equipment to include generators, condensing units, chiller units, etc.

Many units in the City were originally installed before any Code was in place, and extend into the required side yard. Replacement of these units has led to variances being needed, and in the case of a new unit being placed a variance would be necessary. In the last 10 years, the BZA has approved every variance request for equipment in the required side yard, except for a generator in an easement that was tabled waiting for Council approval to encroach into an easement.

A site plan has always been required with an HVAC permit application to show if the unit would be in the required side yard setback. Thorough review of the site plans has ebbed and flowed over the years depending on the reviewer. Typically when a contractor is securing a permit to replace a condensing unit, it is when a unit has stopped working and needs immediate replacement. Putting the permit application in a queue for review has usually led to installation of condensing units before the permit has been issued.

The ARB would still review the placement of new (not replacement) equipment on properties in
the Architectural Review District.

**Proposed Code Change:**
The proposed Code change would allow Building Services Equipment to be located in the side yard with screening, regardless of the distance from the side property line. Approval of the change would reduce the amount of variance requests to the BZA, and eliminate the need for location review as part of the permit process, thus allowing immediate issuance of HVAC permits for residential properties.

**Current Code Language:**

**1173.10 LOCATION OF BUILDING SERVICE EQUIPMENT:**

(a) Any building service equipment, including air-conditioning or refrigeration system which includes an exterior compressor, cooling tower, condensing unit, chiller unit, absorber, or emergency generator, either singularly or in any combination of the above, or any other exterior device which expels heat and/or noise detectable from outside the premises on which such system is located shall be installed and maintained with such exterior unit located to the rear of the dwelling unit but not in any minimum rear yard required by Chapter 1149 of the Planning and Zoning Code. Such unit shall discharge to the rear or when so designed, vertically.

(b) The provisions of subsection (a) hereof notwithstanding, building service equipment may be located at the side of the dwelling, provided that all of the following criteria are satisfied:

---(1) That the equipment is not located in any side yard required by Chapter 1149 of the Planning and Zoning Code; and,

---(2) That the equipment shall be effectively screened on the front and sides by an evergreen hedge or dense planting of evergreen shrubs not less than the height of the equipment three feet in height not less than that of the equipment, or by a brick or stone fence or wall of similar height conforming to Chapter 1180; and,

---(3) That a site plan indicating conformance to subsections (b)(1) and (2) hereof shall be filed with and approved by the Building Inspector; and,

---(4) That the equipment is installed and maintained in accordance with the requirements of this section, including screening.

**Final Code Language:**

**1173.10 LOCATION OF BUILDING SERVICE EQUIPMENT:**

(a) Any building service equipment, including air-conditioning or refrigeration system which includes an exterior compressor, cooling tower, condensing unit, chiller unit, absorber, or emergency generator, either singularly or in any combination of the above, or any other exterior device which expels heat and/or noise detectable from outside the premises on which such system is located shall be installed and maintained with such exterior unit located to the rear of the dwelling unit.

(b) The provisions of subsection (a) hereof notwithstanding, building service equipment may be located at the side of the dwelling, provided that the equipment shall be effectively screened on the front and sides by an evergreen hedge or dense planting of evergreen shrubs not less than the height of the equipment, or by a fence or wall of similar height conforming to Chapter
Recommendations:
Staff is recommending approval of the Code amendment.

On September 10, 2015 the Municipal Planning Commission reviewed and recommended conditional approval to City Council on an Ordinance to Amend the Codified Ordinances of the City of Worthington with the following condition:

1. Section 1173.10(b) be modified to state that the plantings shall not be less than the height of the equipment. (Final code language incorporates condition)
RESOLUTION NO. 47-2015

Authorizing the Award of Re-emergent Corridor Assistance Program Funds to Help Improve Facility Exterior Facade and Streetscape Along Certain of the City’s Commercial Corridors (7046 Worthington-Galena Road).

WHEREAS, in May 2014 the City launched its Re-emergent Corridor Assistance Program, or ReCAP, as an exterior façade and streetscape enhancement initiative to induce property owners and tenants to re-invest in their commercial properties in Worthington; and,

WHEREAS, those commercial properties eligible for ReCAP assistance during program year 2015 are located in the commercial corridor comprised by Huntley Road, Proprietors Road, and the connecting portions of Schrock Road and Worthington-Galena Road, respectively; and,

WHEREAS, the City received an application for program assistance from Chad Roberts to make exterior improvements to commercial real property the applicant owns at 7046 Worthington-Galena Road, City of Worthington, Franklin County (the “Property”); and,

WHEREAS, as specified in the ReCAP Policy & Procedures, City staff prepared the application materials for review by the Worthington Community Improvement Corporation (“CIC”) at its regular meeting on September 21, 2015; and,

WHEREAS, although the CIC lacked quorum at its September 21 regular meeting, those Board members present favorably reviewed Chad Robert’s application and assented to forwarding said application to City Council for its approval; and,

WHEREAS, City Council is desirous of encouraging the exterior renovation and streetscape improvements to be made by Chad Roberts as set forth in its application for ReCAP assistance, which is attached hereto and incorporated herein as EXHIBIT A.

NOW THEREFORE, BE IT RESOLVED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That the Council of the City of Worthington does hereby approve the award of $19,537 in assistance under the Re-emergent Corridor Assistance Program, or ReCAP, to Chad Roberts, with said assistance structured in the form of one-half the amount in grant funds and one-half the amount in loaned funds to encourage investments in, and improvements to, the Property.
RESOLUTION NO. 47-2015

SECTION 2. This award of ReCAP assistance shall be in accordance with and subject to the requirements set forth in the ReCAP Policy & Procedures, including the use of City funds for only those Eligible Improvement Costs as identified therein.

SECTION 3. The City Manager, the Director of Finance, and the Director of Law, and any other City official, as appropriate, are each authorized and directed to sign the necessary documents to evidence the ReCAP assistance approved herein, and are authorized and directed to sign any other documents, instruments or certificates and to take such actions as are necessary or appropriate to consummate or implement the transaction described in or contemplated by this Resolution.

SECTION 4. That the Clerk of Council be instructed to record this Resolution in the appropriate record book.

Adopted __________________

___________________________________
President of Council

Attest:

___________________________________
Clerk of Council
EXHIBIT A

Re-emergent Corridor Assistance Program (ReCAP)
Application for Assistance (2015)

Those interested in receiving ReCAP financing for exterior improvements must complete this form and submit to the City of Worthington. The City will review the information to determine whether an award of ReCAP assistance is approved for the described project.

<table>
<thead>
<tr>
<th>Applicant Information</th>
</tr>
</thead>
<tbody>
<tr>
<td>Applicant Name</td>
</tr>
<tr>
<td>Contact Name &amp; Title</td>
</tr>
<tr>
<td>Contact Email</td>
</tr>
<tr>
<td>Contact Phone No.</td>
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<tr>
<td>Project Site Address</td>
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<tr>
<td></td>
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<tr>
<td></td>
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<td></td>
</tr>
<tr>
<td>Is this site:</td>
</tr>
<tr>
<td>□ Leased (lease ends:</td>
</tr>
<tr>
<td>___ / ___ / ___)</td>
</tr>
<tr>
<td>Applicant’s Federal</td>
</tr>
<tr>
<td>Identification Number</td>
</tr>
<tr>
<td>(FEIN)</td>
</tr>
<tr>
<td>(attach sheet if</td>
</tr>
<tr>
<td>additional FEINs)</td>
</tr>
</tbody>
</table>

Describe Applicant’s Commitment to and Involvement in the Worthington Community:

As the owner of On3 Performance, I hope to upgrade our building for safety and visual perspective from the busy street we are on. Looking forward to bringing more business and employees to the Worthington area. After getting settled, becoming more active in the Worthington community.

Attach Copy of Applicant’s Recent Letter of Credit or Loan Commitment from a Banking Institution:

If the Applicant cannot show recent correspondence from a Banking Institution, Applicant can supply a completed Personal Financial Statement (SBA Form 413).
Property Owner Information

<table>
<thead>
<tr>
<th>Property Owner Name*</th>
<th>Chad Roberts</th>
</tr>
</thead>
<tbody>
<tr>
<td>Email</td>
<td></td>
</tr>
<tr>
<td>Phone No.</td>
<td></td>
</tr>
</tbody>
</table>

* If Applicant is NOT the Property Owner, then Property Owner must supply notarized acknowledgement.

As the owner in fee simple of the real property at the Project Site Address, I hereby acknowledge and approve of the Applicant submitting this request for City of Worthington ReCAP assistance to improve said property.

PROPERTY OWNER

STATE OF OHIO                )
COUNTY OF                   ) ss.

Before me, a Notary Public, in and for said county, personally appeared the above-named Property Owner who acknowledged the signing hereof to be his/her voluntary act for the purposes therein mentioned.

Signed: ____________________
            Notary Public, State of Ohio

My Commission expires: ________

Project Site – Current Conditions

In the Space Provided, Describe the Project Site’s Current Conditions, including Building & Site Improvement Needs

(The roof is in need of a lot of repairs. The gutters need fixed. Water is getting behind the outside brick and will be falling off. (If not fixed) some glass needs fixed, Men Doors need replaced in back. Two of the front ceilings are rusted and need repaired. Caulking around some doors, windows, Brick has held water running behind it for sometime before we owned it and needs repairs and painted. Some brick has been replaced and is different colors. We have already replaced 2 garage doors, and cleaned, Painted and fitted bathrooms. Attach Current, As-is Photographs of the Project Site

Page 2 of 4
## Project Scope of Work & Applicant Experience

<table>
<thead>
<tr>
<th>Estimated Total Exterior Project Costs</th>
<th>$46,000.00</th>
</tr>
</thead>
</table>

### In the Space Provided,
Describe the Exterior Improvement Project’s Scope of Work*

*If the exterior work is part of a larger renovation project at the Project Site, please describe other planned improvements*

- Roof Repaired/ Gutters Fixed
- Windows Fixed or Replaced
- Man doors Replaced in back
- Brick Repaired and painted
- 2 Ceilings Fixed and painted
- on both outside door ways
- The middle and one to the right
- The other one was already done.
- Caulking around Doors & Windows.

- A break room outside the front door will be built but not till next spring. Hoping to get it by fall but not sure...
- Some lighting on the outside of building to be replaced or added.

### In the Space Provided,
Describe the Applicant’s Experience in Undertaking / Managing Similar Projects

We have rehabbed houses as a family from the time I was in the 7th grade. We did my dad’s building in Westerville at 200 Intek was about 6 years ago. My Dad will also be working along side me on this building. With the contractor(s) we hire for each job, to make sure they do a good job. My life savings is in this building and business.

*Attach Schematic Designs and/or Drawings for the Exterior Improvement Project*
### Project Work Bids

**Attach Two (2) Written Bids for All Exterior Improvement Work to be Performed under the Project**

Applicant must supply at least two (2) written bids for the work to be performed. Applicants must ensure that both bids are based on the same work (example: if Bid 1 is for tuckpointing, window replacement, and flashing, Bid 2 must also be for same scope of services).

**NOTE**: Although ReCAP awards are calculated only per the lowest bid, Applicants are free to accept higher bids.

### Contractor Selected & Construction Schedule

<table>
<thead>
<tr>
<th>Contractor Selected</th>
<th>Name: ____________________________________________</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Construction Schedule</strong></td>
<td></td>
</tr>
<tr>
<td>Approximate date work to begin:</td>
<td>Approximate date work to be completed:</td>
</tr>
<tr>
<td><strong>Oct 1, 2015</strong></td>
<td><strong>Sept 30, 2016</strong></td>
</tr>
</tbody>
</table>

In all cases, ReCAP-assisted construction must be completed within 24 months of making application.

### Applicant Signature

As an authorized representative of the Applicant, I hereby submit this Application. I understand that this Application, once submitted, in no way constitutes a commitment of funds by the City of Worthington.

I hereby represent and certify that I have reviewed the information contained in this Application, and the foregoing and attached information, to the best of my knowledge and belief, is true, complete and accurately describes the proposed project for which the City's ReCAP assistance is being sought.

I am aware that Ohio law sets forth criminal penalties for falsification on applications for economic development assistance (see Ohio Revised Code §2921.13(A)(4)).

[Signature]

**Chad Roberts**
Printed Name & Title

*Aug 26, 2015*

Applications are to be submitted to the following:

**City of Worthington, Economic Development**

6550 North High Street
Worthington, Ohio 43085

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1 If qualified to do so, the Applicant may perform the improvement work. But note that ReCAP funds cannot be used to compensate you for the purchase or rental of tools and equipment or for your labor or the labor of family, friends, employees, or others with a financial interest in the business or property; in such instances, ReCAP can be used only to pay for materials.
This is intended to provide background information concerning the recommendation that City Council approve $19,537 in exterior enhancement assistance under the ReCAP initiative to Chad Roberts at 7046 Worthington-Galena Road.

**Recommended Action:**

The CIC conducted a regular meeting on September 21, 2015 and reviewed the proposed exterior improvements to 7046 Worthington-Galena Road. Although the CIC did not have quorum, there was consensus among those Board members present for the ReCAP application to move forward to City Council for approval. The application submitted by Chad Roberts was scored by both City staff and the CIC Board members present, receiving a final score of 75 points (out of 100 possible; a minimum passing score of 52 points is required).

Staff recommend that City Council approve $19,537 in ReCAP assistance to Chad Roberts to make improvements pursuant to the program’s guidelines and procedures.

**ReCAP Initiative:**

The City of Worthington launched a façade improvement grant / revolving loan fund (RLF) in May 2014 to induce private, commercial property owners and tenants to make exterior-focused improvements. Worthington calls this initiative the Re-emergent Corridor Assistance Program (“ReCAP”). In its second year, the program is focused on improving properties located along Huntley Road, Proprietors Road, and connecting portions of Schrock Road and Worthington-Galena Road (collectively, the “Corridor”).
The Corridor is comprised of older properties which lag behind comparable properties elsewhere in the Central Ohio region, and many of the Corridor’s properties are marked by declining investment and depressed leasing rates.

Grants and no-cost financing are available under ReCAP to fund prospective commercial building exterior enhancements. ReCAP assistance is provided as one-time, up-front cash payments to awardees, each in the form of a half-grant, half-loan amount. This assistance is to partially fund well-designed exteriors that enhance the design integrity of the Corridor and secure participating buildings against further devaluation and disinvestment.

**Proposed Project:**

The project at 7046 Worthington-Galena Road is owned by Under PSI Properties LLC, a relatively new owner, having purchased the building in May 2015. This new owner fully intends to make substantial improvements to the building’s exterior facade.

The work proposed by the applicant was designed by the Neighborhood Design Center and consists of updates to the windows and doors, paint and landscaping at this site. Specific improvements will include widening existing windows and replacing a door on the western elevation; painting the entire exterior; and installing an outdoor patio with new landscaping.

The proposed timeline would result in a September 2016 completion. Staff received two separate bids for each of the discrete project elements. Calculating the award amount on the basis of the lowest bids received, and removing cost items for roof repair and back-of-house door installation (neither of which are ReCAP priorities), the total estimated costs are $39,075, which means the request for ReCAP assistance would be $19,537.

The City staff’s recommended scoring was reviewed by those CIC Board members present at the September 21 meeting. With one change requested by the CIC Board, the total score assigned to the 7046 Worthington-Galena Road project was 75 out of 100 points.

Please make special note of the involvement of the Neighborhood Design Center (“NDC”), which conducted the design and application assistance for this project. For 2015, NDC is on engagement with the City to provide no-cost (to the applicant) design and planning services to ReCAP projects.
ReCAP Application Review Session

Worthington Community Improvement Corp.
September 21, 2015
A Recap of ReCAP

Re-Emergent Corridor Assistance Program (ReCAP)

- Funding to **building owners** or **commercial tenants** to improve their facades & surrounding streetscapes

- 2015 focus on **commercial corridor**: Huntley, Proprietors & Schrock Roads
  - Commercial properties must be located within ReCAP Program Area

- Commercial building **exterior enhancements**, **prospective** in nature
  - Exterior front façade
  - Side building elevations if on corner lot

- Paid on a **match basis**, $1:$1 with private funds
Eligibility

• Building owners and tenants (w/property owner’s approval)
• Building in ReCAP Program Area
• Applicant in full compliance with all income and real estate tax obligations
• All project work must abide by MPC approvals & building permit processes

• **NO Interior Improvements**
2014-2015 ReCAP Awards
A Recap of ReCAP – cont.

• 50 – 50 Grant-Loan Financing
  • Partially fund well-designed exteriors
  • Maximum award = lesser of 50% of the lowest contractor’s bid for work under the project or $25,000
  • Cash paid up-front, 50-50 loan-grant
    • Up to $12,500 one-time grant
    • Up to $12,500 loaned at 0%, 3-year term

• Applications reviewed by City staff and recommended by CIC

• Approved by City Council
7046 Worthington-Galena Road
7046 Worthington-Galena Road
Existing Condition

7046 Worthington-Galena Road
Existing Condition

7046 Worthington-Galena Road
Proposed Improvements

7046 Worthington-Galena Road
Proposed Improvements

7046 Worthington-Galena Road
Scope of Work

- Neighborhood Design Center-recommended updates – *split across 2 phases*:
  - Widen windows and install new door
  - Paint entire exterior
  - Outdoor break area: awning & landscaping
- Timeline: Sept. 30, 2016 completion
- Total estimated costs: $22,863.00 (Phase 1)
  16,212.75 (Phase 2)
- Request ReCAP assistance: $11,432.00 (Phase 1)
  8,106.38 (Phase 2)
ORDINANCE NO. 40-2015

Amending Chapter 922 of the Codified Ordinances of the City Regulating Residential On-Site Sewage Disposal Facilities.

WHEREAS, in 2014 the Ohio legislature finalized rules for the ownership, maintenance, operation and installation of home sewerage treatment systems, effective as of January 1, 2015; and,

WHEREAS, as the City’s health services contract provider, the Columbus Board of Health has been responsible to conduct inspections and collect fees from City of Worthington homeowners who have home sewerage treatment facilities; and,

WHEREAS, the Columbus Board of Health adopted Resolution 14-29 to update and revise its rules pertaining to home sewage treatment facilities consistent with the changes required by Ohio Revised Code Chapter 3718 and the Ohio Administrative Code Chapter 3701-29; and,

WHEREAS, it is necessary for the City to amend Chapter 922 to comply with the revised state regulations and Columbus Board of Health rules.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Sections 922.01 and 922.02 of the Codified Ordinances of the City of Worthington be and the same hereby are amended to read as follows:

**922.01 OPERATING PERMIT REQUIRED.**
No property owner shall operate an on-site residential sewage disposal system without an operating permit issued by the Columbus Board of Health, acting as the City’s designated health services contract provider.

**922.02 ISSUANCE OF PERMITS.**
An operating permit shall be issued by the Columbus Board of Health pursuant to Chapter 225 of the Columbus City Health Code, amended and adopted by the Columbus Board of Health on December 16, 2014, as the same may be amended, which Chapter is hereby adopted and incorporated herein by reference. Section 225.01 of the Columbus City Health Code approves Chapter 3701-29 of the Ohio Administrative Code as the minimum compliance standard for enforcement by Columbus Board of Health.

SECTION 2. Sections 922.03 and 922.04 of the Codified Ordinances of the City, pertaining to Inspections and a Grace Period, respectively, are hereby repealed.
ORDINANCE NO. 40-2015

SECTION 3. Section 922.99 of the Codified Ordinances of the City pertaining to the Penalty for a violation of Chapter 922 remains unchanged and in full force and effect.

SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed: ________________

____________________________________
President of Council

Attest:

____________________________________
Clerk of Council
MEMORANDUM

TO: Bill Watterson, Director of Service and Engineering
FROM: Rob Chandler, Assistant to the Director
DATE: September 29, 2015
SUBJECT: HSTS Permitting and Fee Structure

In 2014 the Ohio legislature finalized rules for the ownership, maintenance, operation and installation of Home Sewerage Treatment Systems, otherwise known as HSTS. These systems treat sewerage and waste water on site rather than the conventional method of tying a lateral service into the City’s Sanitary Sewer system. These HSTS tend to be located at home sites where no sanitary sewer is available to tap, or doing so would be infeasible due to location and cost. There are currently 93 such systems scattered throughout the City.

The State of Ohio requires local Boards of Health to institute a program for the inspection, operations and maintenance of such systems to ensure no waste is being discharged to local waterways, thus preventing a public health nuisance. Since the City of Worthington does not have its own Board of Health, we currently contract with Columbus Public Health to conduct the program. Until recently, property owners were contacted via letter by Columbus Public Health (CPH) annually. An annual fee of $50.00 was paid by the property owner directly to CPH, a CPH registered sanitarian inspected the system, and if found to be in compliance, the system was permitted for the year.

The new laws have required Columbus Public Health to make significant changes to the inspection and permitting program, and as such, these changes will affect Worthington property owners currently served by an HSTS. Property owners will now have one of two options.

OPTION 1-Property owners on a discharging system (those with mechanical components such as aerators) may secure a maintenance contract with a licensed Septic Service provider for annual inspection, operation and maintenance. When the property owner is contacted via letter from Columbus Public Health, they may send in a copy of the contractor’s annual inspection report and Operations and Maintenance Agreement. An annual permit will be issued by CPH, and no fee will be charged.
Con’t.

OPTION 2-Property owners choosing not to enter into a service agreement with a private contractor may use Columbus Public Health to conduct the annual inspection and reporting. If this option is exercised, Columbus Public Health will invoice the property owner a $200.00 inspection and permitting fee. If the system is found to be in compliance, the annual operating permit will be issued. If the system is found to be failing or otherwise deficient, the property owner will need to secure the services of a private, licensed Septic Service provider to repair the system to the Board of Health’s satisfaction. This marks a significant increase in the former permit fee of $50.00 per year. However, property owners employing OPTION 1 would pay no fee.

In addition, property owners with an HSTS that does not discharge or have mechanical components (traditional leach field systems) will only be inspected once every five years. The fee from Columbus Public Health for inspection and permitting of these systems is $150.00 once, every five years. This results in a savings of $100.00 every five years, as opposed to the former fee schedule of $50.00 annually.

Columbus Public Health will handle all notification, permitting and compliance under agreement through our annual Health Services Contract. Any enforcement actions needed against failing HSTS will be handled by our department.
ORDINANCE NO. 41-2015

Authorizing the Issuance of Not to Exceed $4,440,000 of Bonds for the Purpose of Currently Refunding a Portion of Bonds Issued in 2005 for the Purpose of Advance Refunding a Portion of Bonds Issued in 2001, and Authorizing and Approving Related Matters.

WHEREAS, the City Council (the "Council") of the City of Worthington (the "City") has issued bonds dated November 23, 2005 in the amount of $7,185,000 (the "Outstanding Bonds"); and,

WHEREAS, in view of currently prevailing lower interest rates the Council has determined that is advisable and in the best interest of the City to issue refunding bonds of the City to currently refund a portion of the Outstanding Bonds (the "Refunded Bonds"); and,

WHEREAS, the Finance Director of the City (the "Finance Director") has certified to this Council that the maximum maturity and authorized principal amount of the bonds herein authorized cannot exceed the maximum maturity and principal amount of the Refunded Bonds; and,

WHEREAS, it is now deemed necessary to issue and sell not to exceed $4,440,000 of such bonds under authority of the general laws of the State of Ohio, including Chapter 133, Ohio Revised Code, and in particular Section 133.34 thereof, for the purpose stated in the title of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

Section 1. Issuance of Bonds. It is hereby declared necessary to issue bonds of the City in the principal sum of not to exceed $4,440,000, or such lesser amount as shall be determined by the Finance Director and certified to this Council, which bonds shall be designated as determined by the Finance Director (the "Bonds") for the purpose described in the title of this Ordinance. The Bonds may be issued in one or more series.

Section 2. Terms of Bonds. The Bonds shall be issued as fully registered bonds in such denominations as shall be determined by the Finance Director, but not exceeding the principal amount of Bonds maturing on any one date; shall be numbered consecutively from R-1 upward, as determined by the Finance Director; shall be dated the date determined by the Finance Director and set forth in the Certificate of Fiscal Officer provided for hereinbelow; and shall bear interest, payable semiannually on such dates as shall be determined by the Finance Director and set forth in the Certificate of Fiscal Officer, until the principal sum is paid or provision has been duly made therefor. Interest shall be calculated on the basis of a 360-day year of twelve 30-day months.
Section 3. Certificate of Fiscal Officer. The Finance Director is hereby authorized and directed to execute on behalf of the City a Certificate of Fiscal Officer Relating to Terms of Bonds (the "Certificate of Fiscal Officer") setting forth the aggregate principal amount and the final terms of the Bonds, which aggregate principal amount and terms, subject to the limitations set forth in this Ordinance, shall be as determined by the Finance Director. The Certificate of Fiscal Officer shall indicate the dated date for the Bonds, the dates on which interest on the Bonds is to be paid (the "Interest Payment Date"), the purchase price for the Bonds (which shall be not less than 97% of the face value thereof), the maturity schedule for the Bonds (provided that the maximum maturity date of the Bonds shall not exceed the dates set forth hereinabove), the interest rates for the Bonds (provided that the true interest cost for all Bonds in the aggregate shall not exceed 4.00% per annum), the optional and mandatory redemption provisions, if any, and such other terms not inconsistent with this Ordinance as the Finance Director shall deem appropriate.

Section 4. Payment of Interest; Denominations. The Bonds shall be issued with interest payable semiannually on each Interest Payment Date until the principal sum is paid or provision has been duly made therefor as shall be set forth in the Certificate of Fiscal Officer.

Section 5. Redemption Provisions. The Bonds shall be subject to optional and mandatory redemption prior to stated maturity, as provided in the Certificate of Fiscal Officer. If optional redemption of the Bonds at a redemption price exceeding 100% is to take place on any date on which a mandatory redemption of the Bonds of the same maturity will take place, the Bonds to be redeemed by optional redemption shall be selected by the Bond Registrar (as defined hereinbelow) prior to the selection of the Bonds to be redeemed at par on the same date.

When partial redemption is authorized, the Bond Registrar shall select Bonds or portions thereof by lot within a maturity in such manner as the Bond Registrar may determine, provided, however, that the portion of any Bond so selected will be in the amount of $5,000 or any integral multiple thereof.

The notice of the call for redemption of Bonds shall identify (i) by designation, letters, numbers or other distinguishing marks, the Bonds or portions thereof to be redeemed, (ii) the redemption price to be paid, (iii) the date fixed for redemption, and (iv) the place or places where the amounts due upon redemption are payable. From and after the specified redemption date interest on the Bonds (or portions thereof) called for redemption shall cease to accrue. Such notice shall be sent by first class mail at least 30 days prior to the redemption date to each registered holder of Bonds to be redeemed at the address shown in the Bond Register (as defined hereinbelow) on the 15th day preceding the date of mailing. Failure to receive such notice of any defect therein shall not affect the validity of the proceedings for the redemption of any Bond.
Section 6. Form and Execution of the Bonds. The Bonds shall express upon their faces the purpose for which they are issued and that they are issued pursuant to this Ordinance; and shall be executed by the Finance Director and the City Manager of the City, in their official capacities, provided that either or both of their signatures may be a facsimile. No Bond shall be valid or become obligatory for any purpose or shall be entitled to any security or benefit under this Ordinance unless and until a certificate of authentication, as printed on the Bond, is signed by the Bond Registrar as authenticating agent. Authentication by the Bond Registrar shall be conclusive evidence that the Bond so authenticated has been duly issued and delivered under this Ordinance and is entitled to the security and benefit of this Ordinance. The certificate of authentication may be signed by any officer or officers of the Bond Registrar or by such other person acting as an agent of the Bond Registrar as shall be approved by the Finance Director on behalf of the City. It shall not be necessary that the same authorized person sign the certificate of authentication on all of the Bonds.

Section 7. Payment of Bonds. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America without deduction for the services of the Bond Registrar as paying agent. The principal of the Bonds shall be payable upon presentation and surrender of the Bonds at the principal office of the Bond Registrar. Each Bond shall bear interest from the later of the date thereof, or the most recent Interest Payment Date to which interest has been paid or duly provided for, unless the date of authentication of any Bond is less than 15 days prior to an Interest Payment Date, in which case interest shall accrue from such Interest Payment Date. Interest on any Bond shall be paid on each Interest Payment Date by check or draft mailed to the person in whose name the Bond is registered, at the close of business on the 15th day next preceding that Interest Payment Date (the "Record Date") (unless such date falls on a non-business day, in which case the Record Date shall be the preceding business day), on the Bond Register at the address appearing therein.

Any interest on any Bond which is payable, but is not punctually paid or provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the registered owner on the relevant Record Date by virtue of having been such owner and such Defaulted Interest shall be paid to the registered owner in whose name the Bond is registered at the close of business on a date (the "Special Record Date") to be fixed by the Bond Registrar, such Special Record Date to be not more than 15 nor less than 10 days prior to the date of proposed payment. The Bond Registrar shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Bondholder, at such Bondholder's address as it appears in the Bond Register, not less than 10 days prior to such Special Record Date, and may, in its discretion, cause a similar notice to be published once in a newspaper in each place where Bonds are payable, but such publication shall not be a condition precedent to the establishment of such Special Record Date.
Subject to the foregoing provisions of this Section, each Bond delivered by the Bond Registrar upon transfer of or in exchange for or in lieu of any other Bond shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Bond.

Section 8. Appointment of Bond Registrar. The Finance Director is hereby authorized and directed to serve as authenticating agent, bond registrar, transfer agent, and paying agent for the Bonds (the "Bond Registrar"). So long as any of the Bonds remain outstanding, the City shall cause to be maintained and kept by the Bond Registrar, at the office of the Bond Registrar, all books and records necessary for the registration, exchange and transfer of Bonds as provided in this Section (the "Bond Register"). Subject to the provisions of hereinafore, the person in whose name any Bond shall be registered on the Bond Register shall be regarded as the absolute owner thereof for all purposes. Payment of or on account of the principal of and interest on any Bond shall be made only to or upon the order of that person. Neither the City nor the Bond Registrar shall be affected by any notice to the contrary, but the registration may be changed as herein provided. All payments shall be valid and effectual to satisfy and discharge the liability upon the Bonds, including the interest thereon, to the extent of the amount or amounts so paid.

Any Bond, upon presentation and surrender at the office of the Bond Registrar, together with a request for exchange signed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar, may be exchanged for Bonds of the same form and of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

A Bond may be transferred only on the Bond Register upon presentation and surrender thereof at the office of the Bond Registrar, together with an assignment executed by the registered owner or by a person authorized by the owner to do so by a power of attorney in a form satisfactory to the Bond Registrar. Upon that transfer, the Bond Registrar shall complete, authenticate and deliver a new Bond or Bonds of any authorized denomination or denominations equal in the aggregate to the unmatured principal amount of the Bonds surrendered, and bearing interest at the same rate and maturing on the same date.

The City and the Bond Registrar shall not be required to transfer or exchange (i) any Bond during a period beginning at the opening of business 15 days before the day of mailing of a notice of redemption of Bonds, and ending at the close of business on the day of such mailing, or (ii) any Bonds selected for redemption, in whole or in part, following the date of such mailing.

In all cases in which Bonds are exchanged or transferred hereunder, the City shall cause to be executed and the Bond Registrar shall authenticate and deliver Bonds in accordance with the provisions of this Ordinance. The exchange or transfer shall be without charge to the owner; except that the City and Bond Registrar may make a charge sufficient to reimburse them for any tax or other governmental charge required to be paid with respect
to the exchange or transfer. The City or the Bond Registrar may require that those charges, if any, be paid before it begins the procedure for the exchange or transfer of the Bonds. All Bonds issued upon any transfer or exchange shall be the valid obligations of the City, evidencing the same debt, and entitled to the same benefits under this Ordinance, as the Bonds surrendered upon that transfer or exchange.

Section 9. Debt Service Levy. There shall be and is hereby levied annually on all the taxable property in the City, in addition to all other taxes and within the ten mill limitation, a direct tax (the "Debt Service Levy") for each year during which any of the Bonds are outstanding, for the purpose of providing, and in an amount which is sufficient to provide, funds to pay interest upon the Bonds as and when the same falls due and to provide a fund for the repayment of the principal of the Bonds at maturity or upon redemption. The Debt Service Levy shall not be less than the interest and sinking fund tax required by Article XII, Section 11 of the Ohio Constitution; provided, however, that in each year to the extent that funds are available from other sources and are lawfully appropriated for the payment of the Bonds, the amount of the Debt Service Levy shall be reduced by the amount of such funds so available and appropriated.

The Debt Service Levy shall be and is hereby ordered computed, certified, levied and extended upon the tax duplicate and collected by the same officers, in the same manner, and at the same time that taxes for general purposes for each of such years are certified, extended and collected. The Debt Service Levy shall be placed before and in preference to all other items and for the full amount thereof. The funds derived from the Debt Service Levy shall be placed in a separate and distinct fund, which shall be irrevocably pledged for the payment of the interest and principal of the Bonds when and as the same falls due.

Section 10. Income Tax Pledge. The City hereby covenants, pursuant to Section 133.05(B)(7), Ohio Revised Code, to appropriate annually from lawfully available municipal income taxes, and to continue to levy and collect municipal income taxes adequate to produce, amounts necessary to meet the debt charges on the Bonds in each year until full payment is made.

Section 11. Purchaser of the Bonds. The Bonds shall be sold at private sale to KeyBank National Association (the "Original Purchaser"), at the purchase price set forth in the Certificate of Fiscal Officer, plus interest accrued to the date of delivery of the Bonds to the Original Purchaser. The Finance Director and the City Manager of the City, or either of them individually, are authorized and directed to execute on behalf of the City a purchase agreement, or such a similar document with the Original Purchaser (collectively, the "Purchase Agreement"), setting forth the conditions under which the Bonds are to be sold and delivered, which Purchase Agreement shall be in such form, not inconsistent with this Ordinance, as the Finance Director shall determine.

Section 12. Escrow Fund; Use of Bond Proceeds; Escrow Agreement. There is hereby created and established, as an account within the Bond Retirement Fund of the City, a trust fund to be designated "City of Worthington, Ohio – 2005 Refunding Bonds Escrow
Fund" (the "Escrow Fund") which shall be in the custody of the Escrow Trustee, as hereinafter defined. The proceeds from the sale of the Bonds, except the accrued interest and premium thereon (if any), shall be deposited in the Escrow Fund along with such funds, if any, as the Finance Director may transfer from the bond retirement fund. Such moneys deposited in the Escrow Fund may be (i) held as cash or (ii) used to purchase direct obligations of or obligations guaranteed as to payment by the United States of America of such maturities and interest payment dates and bearing interest at such rates as will, as certified by such independent public accounting firm as shall be acceptable to the Finance Director and the Original Purchaser without further investment or reinvestment of either the principal amount thereof or the interest earnings therefrom, be sufficient to pay the interest on, and the redemption price (including any redemption premium) of, the Refunded Bonds on the earliest optional redemption date for the Refunded Bonds. The Finance Director is also authorized, if necessary or desirable to facilitate the refunding of the Refunded Bonds, to engage a consultant to verify the sufficiency of the cash or other obligations held in the Escrow Fund to refund the Refunded Bonds on such redemption date.

Any accrued interest received from the sale of the Bonds shall be transferred to the bond retirement fund to be applied to the payment of the principal of and interest on the Bonds, or other obligations of the City, as permitted by law. Any premium received from the sale of the Bonds may be used to pay the financing costs of the Bonds within the meaning of Ohio Revised Code Section 133.01(K) or be deposited into the bond retirement fund, including the Escrow Fund contained therein, in the manner provided by law.

The Finance Director is hereby authorized to execute on behalf of the City an Escrow Agreement (the "Escrow Agreement") with a bank or trust company to be selected by the Finance Director (the "Escrow Trustee"), setting forth the terms by which the Escrow Fund shall be held and disbursed, if the Finance Director determines that an Escrow Agreement is necessary or beneficial to facilitate the refunding of the Refunded Bonds. Such an Escrow Agreement shall be in such form, not inconsistent with this Ordinance, as the Finance Director shall determine.

Section 13. Federal Tax Law Compliance. The City hereby covenants that it shall comply with the requirements of all existing and future laws which must be satisfied in order that interest on the Bonds is and will continue to be excluded from gross income for federal income tax purposes, including without limitation restrictions on the use of the property financed with the proceeds of the Bonds so that the Bonds will not constitute "private activity bonds" within the meaning of Section 141 of the Internal Revenue Code of 1986, as amended (the "Code"). The City further covenants that it shall restrict the use of the proceeds of the Bonds in such manner and to such extent, if any, as may be necessary, after taking into account reasonable expectations at the time the Bonds are issued, so that they will not constitute arbitrage bonds under Section 148 of the Code and the regulations prescribed thereunder (the "Regulations").
Ordinance No. 41-2015

The Finance Director, or any other officer, including the City Manager, is hereby authorized and directed (a) to make or effect any election, selection, designation, choice, consent, approval or waiver on behalf of the City with respect to the Bonds as permitted or required to be made or given under the federal income tax laws, for the purpose of assuring, enhancing or protecting favorable tax treatment or the status of the Bonds or interest thereon or assisting compliance with requirements for that purpose, reducing the burden or expense of such compliance, reducing any rebate amount or any payment of penalties, or making any payments of special amounts in lieu of making computations to determine, or paying, any excess earnings as rebate, or obviating those amounts or payments, as determined by the Finance Director, which action shall be in writing and signed by the Finance Director, or any other officer, including the City Manager, on behalf of the City; (b) to take any and all actions, make or obtain calculations, and make or give reports, covenants and certifications of and on behalf of the City, as may be appropriate to assure the exclusion of interest from gross income and the intended tax status of the Bonds; and (c) to give an appropriate certificate on behalf of the City, for inclusion in the transcript of proceedings, setting forth the facts, estimates and circumstances, and reasonable expectations of the City pertaining to Section 148 and the Regulations, and the representations, warranties and covenants of the City regarding compliance by the City with Sections 141 through 150 of the Code and the Regulations.

The Finance Director shall keep and maintain adequate records pertaining to investment of all proceeds of the Bonds sufficient to permit, to the maximum extent possible and presently foreseeable, the City to comply with any federal law or regulation now or hereafter having applicability to the Bonds which limits the amount of bond proceeds which may be invested on an unrestricted yield or requires the City to rebate arbitrage profits to the United States Department of the Treasury. The Finance Director is hereby authorized and directed to file such reports with, and rebate arbitrage profits to, the United States Department of the Treasury, to the extent that any federal law or regulation having applicability to the Bonds requires any such reports or rebates.


The officer having charge of the minutes of the Council and any other officers of the Council, or any of them individually, are hereby authorized and directed to prepare and certify a true transcript of proceedings pertaining to the Bonds and to furnish a copy of such transcript to the Original Purchaser. Such transcript shall include certified copies of all proceedings and records of the Council relating to the power and authority of the City to issue the Bonds and certificates as to matters within their knowledge or as shown by the books and records under their custody and control, including but not limited to a general certificate of the Finance Director and a no-litigation certificate of the City Manager and the Finance Director, and such certified copies and certificates shall be deemed representations of the City as to the facts stated therein.
The Finance Director is hereby authorized and directed to take such action and to execute and deliver, on behalf of this Council, such additional instruments, agreements, certificates, and other documents as may be in their discretion necessary or appropriate in order to carry out the intent of this Ordinance. Such documents shall be in the form not substantially inconsistent with the terms of this Ordinance, as they in their discretion shall deem necessary or appropriate.

Section 15. Satisfaction of Conditions for Issuance. It is hereby found and determined that all acts, conditions and things necessary to be done precedent to and in the issuing of the Bonds in order to make them legal, valid and binding obligations of the City have happened, been done and been performed in regular and due form as required by law; that the faith, credit and revenue of the City are hereby irrevocably pledged for the prompt payment of the principal and interest thereof at maturity; and that no limitation of indebtedness or taxation, either statutory or constitutional, has been exceeded in issuing the Bonds.

Section 16. Compliance with Open Meeting Requirements. It is hereby found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action, were in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 17. Filing of Note Ordinance. The Clerk of Council is hereby directed to forward a certified copy of this Ordinance to the County Auditor of Franklin County, Ohio.

Section 18. Publication and Effective Date. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and the Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed ___________________

____________________________________
President of Council

Attest:

____________________________________
Clerk of Council
MEMORANDUM

To: Matt Greeson, City Manager
From: Molly Roberts, Finance Director
Date: September 30, 2015
Subject: Refunding Bonds, Series 2015 Legislation

General obligation bonds were issued in 2001 in the amount of $10.5 million to fund the Community Center addition and for the development of the Municipal Police Complex. In 2005, a portion of these bonds ($7,185,000) were called and refunded to capture a lower interest rate and realize substantial savings in interest payments due. 2015 is the first year that the 2005 refunded bonds are able to be called or redeemed. As in 2005, the interest rate environment is favorable and we are able to capture a lower interest rate on the remaining balance of the outstanding bonds ($4,440,000).

In order to proceed with the refunding of the callable bonds and secure a lower interest rate for the balance of the bonds the following legislation is requested to be on the council agenda of October 5, 2015 for introduction and set the public hearing for October 19, 2015. The attached legislation was prepared for Council’s consideration to refund the outstanding bonds due in the amount of $4,440,000 for the same maximum maturity of December 1, 2021. The estimated interest savings is in the amount of $278,449 over the remaining life of the existing bonds. This estimate is based on the current market rates. The actual interest rate of the 2015 refunded bonds will be secured after the effective date of the proposed legislation.
ORDINANCE NO. 42-2015

Enacting Part Seventeen – Title Two of the Codified Ordinances of the City Regarding Municipal Income Tax.

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

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

WHEREAS, the General Assembly has determined 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 House Bill 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 of the Ohio Revised Code; and,

WHEREAS, upon a detailed review of House Bill 5 and the Codified Ordinances of the City, 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 Ohio Revised Code.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Municipality of Worthington, County of Franklin, State of Ohio:

SECTION 1. That Part Seventeen – Title Two of the Codified Ordinances be and is hereby enacted to read as set forth in Exhibit “A” attached hereto and incorporated herein, to take effect and be in force from and after January 1, 2016 for tax years beginning on or after January 1, 2016.

SECTION 2. That Part Seventeen – Title One of the Codified Ordinances shall not be amended by the enactment of Title Two and shall remain effective and in force for all tax years through December 31, 2015.
SECTION 3. That the numbering of the Chapters of Part Seventeen – Title Three be amended correspondingly to the addition of the Chapters in Title Two, such that Chapter 1714 Hotel/Motel Tax and 1717 Motor Vehicle License Tax shall become Chapter 1728 and Chapter 1730, respectively, with each such numbering of the Sections within those Chapters being changed accordingly. The City Clerk is hereby directed to work with the Director of Law to make the changes authorized by this Ordinance and prepare them for codification.

SECTION 4. That notice of passage of this Ordinance shall be posted in the Municipal Administration Building, the Worthington Library, the Griswold Center and Worthington Community Center and shall set forth the title and effective date of the Ordinance and a statement that the Ordinance is on file in the office of the Clerk of Council. This Ordinance shall take effect and be in force from and after the earliest period allowed by law and by the Charter of the City of Worthington, Ohio.

Passed: ________________

____________________________________
President of Council

Attest:

____________________________________
Clerk of Council
CHAPTER 1714
AUTHORITY TO LEVY TAX; PURPOSE

1714.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(A) To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements, the City of Worthington (hereinafter referred to as the City) hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided.

(B)(1) The annual tax is levied at a rate of 2.5% (two and one half percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in the City. The tax is levied on income, qualifying wages, commissions and other compensation, and on net profits as hereinafter provided in Section 1716.01 of this Part Seventeen - Title Two and other sections as they may apply.

(2) Intentionally left blank.

(C) The tax on income and the withholding tax established by this Part Seventeen - Title Two are authorized by Article XVIII, Section 3 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio Revised Code Chapter 718.

CHAPTER 1715
DEFINITIONS

1715.01 DEFINITIONS.

(A) Any term used in this Part Seventeen - Title Two that is not otherwise defined in this Part Seventeen - Title Two 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 Part Seventeen - Title Two that is not otherwise defined in Part Seventeen - Title Two 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.

(B) The singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(C) As used in this Part Seventeen - Title Two:

(1) "Adjusted federal taxable income," for a person required to file as a C corporation, or for a person that has elected to be taxed as a C corporation under division (C)(24)(d) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

(b) Add an amount equal to five percent (5%) of intangible income deducted under division (C)(1)(a) of this section, but excluding that portion of intangible income directly related to the sale, exchange, or other disposition of property described in Section 1221 of the Internal Revenue Code;

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

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

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

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

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

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

(h)(i) Except as limited by divisions (C)(1)(h)(ii), (iii), and (iv) of this section, deduct any net operating loss incurred by the person in a taxable year beginning on or after January 1, 2017.
The amount of such net operating loss shall be deducted from net profit that is reduced by exempt income to the extent necessary to reduce municipal taxable income to zero, with any remaining unused portion of the net operating loss carried forward to not more than five consecutive taxable years following the taxable year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized.

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

(iii)(a) For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty percent (50%) of the amount of the deduction otherwise allowed by division (C)(1)(h)(i) of this section.

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

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

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

(i) Deduct any net profit of a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (V)(3)(b) of Section 1718.01.

(j) Add any loss incurred by a pass-through entity owned directly or indirectly by the taxpayer and included in the taxpayer's federal taxable income unless an affiliated group of corporations includes that loss in the group's federal taxable income in accordance with division (V)(3)(b) of Section 1718.01.

If the taxpayer is not a C corporation, is not a disregarded entity that has made an election described in division (C)(48)(b) of this section, is not a publicly traded partnership that has made the election described in division (C)(24)(d) of this section, and is not an individual, the taxpayer shall compute adjusted federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible
expense unless such payments are in consideration for the use of capital and treated as payment of interest under Section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2)(a) "Assessment" means 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 that commences the person's time limitation for making an appeal to the Board of Tax Review pursuant to Section 1722.01, and has "ASSESSMENT" written in all capital letters at the top of such finding.

(b) "Assessment" does not include a notice denying a request for refund issued under division (C)(3) of Section 1718.05, 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 (C)(2)(a) of this section.

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

(4) "Board of Tax Review" or “Board of Review” or “Board of Tax Appeals”, or other named local board constituted to hear appeals of municipal income tax matters, means the entity created under Section 1722.01.

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

(6) "Casino operator" and "casino facility" have the same meanings as in Section 3772.01 of the ORC.

(7) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to Section 5703.056 of the ORC.

(8) "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.
(9) “Domicile” means the true, fixed, and permanent home of a taxpayer and to which, whenever absent, the taxpayer intends to return. A taxpayer may have more than one residence but not more than one domicile.

(10) "Employee" means an individual who is an employee for federal income tax purposes.

(11) "Employer" means a person that is an employer for federal income tax purposes.

(12) "Exempt income" means all of the following:

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

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

(c) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (C)(12)(c) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.

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

(e) Compensation paid under Section 3501.28 or 3501.36 of the ORC to a person serving as a precinct election official to the extent that such compensation does not exceed $1,000 for the taxable year. Such compensation in excess of $1,000 for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

(g) Alimony and child support received.

(h) Compensation for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or compensation from punitive damages.
(i) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the ORC. Division (C)(12)(i) of this section does not apply for purposes of Chapter 5745. of the ORC.

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

(k) Compensation or allowances excluded from federal gross income under Section 107 of the Internal Revenue Code.

(l) Employee compensation that is not qualifying wages as defined in division (C)(35) of this section.

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

(n) An S corporation shareholder's share of net profits of the S corporation, other than any part of the 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.

(o) All of the income of individuals under 18 years of age.

(p)(i) Except as provided in divisions (C)(12)(p)(ii), (iii), and (iv) of this section, qualifying wages described in division (C)(2) or (5) of Section 1717.01 to the extent the qualifying wages are not subject to withholding for the City under either of those divisions.

(ii) The exemption provided in division (C)(12)(p)(i) of this section does not apply with respect to the municipal corporation in which the employee resided at the time the employee earned the qualifying wages.

(iii) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages that an employer elects to withhold under division (C)(4)(b) of Section 1717.01.

(iv) The exemption provided in division (C)(12)(p)(i) of this section does not apply to qualifying wages if both of the following conditions apply:

(a) For qualifying wages described in division (C)(2) of Section 1717.01, 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
(C)(5) of Section 1717.01, the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

    (b) The employee receives a refund of the tax described in division (C)(12)(p)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

    (q)(i) Except as provided in division (C)(12)(q)(ii) or (iii) of this section, compensation that is not qualifying wages paid to a nonresident individual for personal services performed in the City on not more than 20 days in a taxable year.

    (ii) The exemption provided in division (C)(12)(q)(ii) of this section does not apply under either of the following circumstances:

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

        (b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (C)(12)(q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 1717.01(C).

        (iii) Compensation to which division (C)(12)(q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is domiciled.

        (iv) For purposes of division (C)(12)(q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at which the individual regularly performs personal services for compensation.

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

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

Any item of income that is exempt income of a pass-through entity under division (C) 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.
EXHIBIT “A”

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

(14) "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 or for filing a refund claim.

(15) “Gross receipts” means the total revenue derived from sales, work done, or service rendered.

(16) "Income" means the following:

(a)(i) For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (C)(24)(d) of this section.

(ii) For the purposes of division (C)(16)(a)(i) of this section:

(a) Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (C)(16)(a)(iv) of this section;

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

(iii) Division (C)(16)(a)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S corporation unless shareholders' shares of net profits from S corporations are subject to tax in the municipal corporation as provided in division (C)(12)(n) or (C)(16)(e) of this section.

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

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

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

(d) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the taxpayer is a professional gambler for federal income tax purposes, the taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings.

(e) Intentionally left blank.

(17) "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 ORC, and patents, copyrights, trademarks, tradenames, 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.

(18) "Internal Revenue Code" has the same meaning as in Section 5747.01 of the ORC.

(19) "Limited liability company" means a limited liability company formed under Chapter 1705. of the ORC or under the laws of another state.

(20) "Municipal corporation" 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 ORC.

(21) "Municipal taxable income" means the following:

(i) For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the City under Section 1716.01, and further reduced by any pre-2017 net operating loss carryforward available to the person for the City.

(ii)(a) For an individual who is a resident of the City, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (C)(21)(b) of this section, and further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.

(b) For an individual who is a nonresident of the City, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or sitused to the City under Section 1716.01, then reduced as provided in division (C)(21)(b) of this section, and
further reduced by any pre-2017 net operating loss carryforward available to the individual for the City.

(b) In computing the municipal taxable income of a taxpayer who is an individual, the taxpayer may subtract, as provided in division (C)(21)(a)(ii)(a) or (C)(21)(b) 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, but to the extent the expenses do not relate to exempt income. 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 and are not related to exempt income.

(22) “Municipality” means the same as the City of Worthington. If the terms are capitalized in the ordinance they are referring to Worthington. If not capitalized they refer to a municipal corporation other than Worthington.

(23) "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.

(24)(a) "Net profit" for a person other than an individual means adjusted federal taxable income.

(b) "Net profit" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of division (C)(24)(b) of this section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in division (C)(1)(h) of this section.

(c) For the purposes of this Part Seventeen - Title Two, and notwithstanding division (C)(24)(a) of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

(d) 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 by the City, may elect to be treated as a C corporation for the City. The election shall be made on the annual return for the City. The City will treat the publicly traded partnership as a C corporation if the election is so made.

(25) "Nonresident" means an individual that is not a resident.

(26) "Ohio Business Gateway" means the online computer network system, created under Section 125.30 of the ORC, that allows persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.
(27) "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.

(28) "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.

(29) “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.

(30) "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.

(31) "Postal service" means the United States postal service.

(32) "Postmark date," "date of postmark," and similar terms include the date recorded and marked in the manner described in division (B)(3) of Section 5703.056 of the ORC.

(33)(a) "Pre-2017 net operating loss carryforward" means any net operating loss incurred in a taxable year beginning before January 1, 2017, to the extent such loss was permitted, by a resolution or ordinance of the City that was adopted by the City before January 1, 2016, to be carried forward and utilized to offset income or net profit generated in the City in future taxable years.

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

(34) “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.

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

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

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

(iii) Intentionally left blank.

(iv) Intentionally left blank.

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

(b) Add the following amounts:

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

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (C)(35)(b)(ii) of this section applies only to those amounts constituting ordinary income.

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (C)(35)(b)(ii) of this section applies only to employee contributions and employee deferrals.

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

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

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

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

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

(c) For no succeeding taxable year will the amount constitute wages; and
(d) For any taxable year the amount has not otherwise been added to wages pursuant to either division (C)(35)(b) of this section or Section 4, as that section existed before the effective date of H.B. 5 of the 130th General Assembly, March 23, 2015.

(36) "Related entity" means any of the following:

(a) An individual stockholder, or a member of the stockholder's family enumerated in Section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock;

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

(c) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (C)(36)(d) of this section, provided the taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty percent of the value of the corporation's outstanding stock;

(d) The attribution rules described in Section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (C)(36)(a) to (c) of this section have been met.

(37) "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 percent (20%)" shall be substituted for "five percent (5%)" wherever "five percent (5%)" appears in Section 1563(e) of the Internal Revenue Code.

(38) "Resident" means an individual who is domiciled in the City as determined under Section 1716.01(E).

(39) "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.

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

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

(43) "Single member limited liability company" means a limited liability company that has one direct member.

(44) "Small employer" means any employer that had total revenue of less than $500,000 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; compensation; 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.

(45) "Tax Administrator" means the individual charged with direct responsibility for administration of an income tax levied by the City in accordance with this Part Seventeen - Title Two.

(46) "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.

(47) "Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.

(48)(a) "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with Part Seventeen - Title Two. "Taxpayer" does not include a grantor trust or, except as provided in division (C)(48)(b)(i) of this section, a disregarded entity.

(b)(i) A single member limited liability company that is a disregarded entity for federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

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

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

(c) Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of ORC Section 718.01 as that section existed on December 31, 2004.
(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member.

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

(ii) For purposes of division (C)(48)(b)(i)(e) of this section a municipal corporation was the primary place of business of a limited liability company if, for the limited liability company's taxable year ending in 2003, its income tax liability was greater in that municipal corporation than in any other municipal corporation in Ohio, and that tax liability to that municipal corporation for its taxable year ending in 2003 was at least $400,000.

(49) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in Sections 1718.05, 1719.01, 1720.01, 1721.01(B), 1721.02, 1722.01, and Sections 5717.011 and 5717.03 of the ORC, and the responsibilities of taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718. of the ORC and resolutions, ordinances, and rules and regulations adopted by the City for the imposition and administration of a municipal income tax.

(50) "Video lottery terminal" has the same meaning as in Section 3770.21 of the ORC.

(51) "Video lottery terminal sales agent" means a lottery sales agent licensed under Chapter 3770. of the ORC to conduct video lottery terminals on behalf of the state pursuant to Section 3770.21 of the ORC.

CHAPTER 1716

IMPOSITION OF TAX

1716.01 IMPOSITION OF TAX.

The income tax levied by the City at a rate of two and one half percent (2.5%) is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in the City.

Individuals.

(A) For residents of the City, the income tax levied herein shall be on 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. This is further detailed in the definition of income (Section 1715.01(C)(16)).

(B) For 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 City, including any net profit of the nonresident, but excluding the nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the nonresident.

(C) For residents and nonresidents, income can be reduced to “Municipal Taxable Income” as defined in Section 1715.01(C)(21). Exemptions which may apply are specified in Section 1715.01(C)(12).

**Refundable credit for Nonqualified Deferred Compensation Plan.**

(D)(1) As used in this division:

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

(b) “Qualifying loss” means the amount of compensation attributable to a taxpayer’s nonqualified deferred compensation plan, less the receipt of money and property attributable to distributions from the nonqualified deferred compensation plan. Full loss is sustained if no distribution of money and property is made by the nonqualified deferred compensation plan. The taxpayer sustains a qualifying loss only in the taxable year in which the taxpayer receives the final distribution of money and property pursuant to that nonqualified deferred compensation plan.

(c)(i) "Qualifying tax rate" means the applicable tax rate for the taxable year for which the taxpayer paid income tax to the City with respect to any portion of the total amount of compensation the payment of which is deferred pursuant to a nonqualified deferred compensation plan.

(ii) If different tax rates applied for different taxable years, then the "qualifying tax rate" is a weighted average of those different tax rates. The weighted average shall be based upon the tax paid to the City each year with respect to the nonqualified deferred compensation plan.

(d) “Refundable credit” means the amount of the City income tax that was paid on the non-distributed portion, if any, of a nonqualified deferred compensation plan.

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

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

(4) The credit allowed under this division is allowed only to the extent the taxpayer's qualifying loss is attributable to:
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(a) The insolvency or bankruptcy of the employer who had established the nonqualified deferred compensation plan; or

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

**Domicile.**

(E)(1)(a) An individual is presumed to be domiciled in the City for all or part of a taxable year if the individual was domiciled in the City on the last day of the immediately preceding taxable year or if the Tax Administrator reasonably concludes that the individual is domiciled in the City for all or part of the taxable year.

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

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

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

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

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

(d) 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;

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

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

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

(h) 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 where the educational institution is located;

(i) The number of contact periods the individual has with the City. For the purposes of this division, an individual has one "contact period" with the City if the individual is away overnight from the individual's abode located outside of the City and while away overnight from that abode spends at least some portion, however minimal, of each of two consecutive days in the City.

(3) All additional applicable factors are provided in the Rules and Regulations.
EXHIBIT “A”

Businesses.

(F) This division applies to any taxpayer engaged in a business or profession in the City, unless the taxpayer is an individual who resides in the City 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 ORC.

(1) Except as otherwise provided in division (F)(2) of this section, net profit from a business or profession conducted both within and without the boundaries of the City shall be considered as having a taxable situs in the City for purposes of municipal income taxation in the same proportion as the average ratio of the following:

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

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

(b) Wages, salaries, and other compensation paid during the taxable period to individuals employed in the business or profession for services performed in the City 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 1717.01(C);

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

(2)(a) If the apportionment factors described in division (F)(1) of this section do not fairly represent the extent of a taxpayer's business activity in the City, the taxpayer may request, or the Tax Administrator of the City 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:

(i) Separate accounting;

(ii) The exclusion of one or more of the factors;

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

(iv) A modification of one or more of the factors.
(b) A taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an assessment, or timely filed amended tax return. The taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an assessment issued within the period prescribed by Section 1719.01(A).

(c) The Tax Administrator may require a taxpayer to use an alternative apportionment method as described in division (F)(2)(a) of this section, but only by issuing an assessment to the taxpayer within the period prescribed by Section 1719.01(A).

(d) Nothing in division (F)(2) of this section nullifies or otherwise affects any alternative apportionment arrangement approved by the Tax Administrator or otherwise agreed upon by both the Tax Administrator and taxpayer before January 1, 2016.

(3) As used in division (F)(1)(b) of this section, "wages, salaries, and other compensation" includes only wages, salaries, or other compensation paid to an employee for services performed at any of the following locations:

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

(i) The employer;

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

(iii) A vendor, customer, client, or patient of a person described in division (F)(3)(a)(ii) of this section, or a related member of such a vendor, customer, client, or patient.

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

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

(4) For the purposes of division (F)(1)(c) of this section, receipts from sales and rentals made and services performed shall be sitused to a municipal corporation as follows:

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

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

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

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

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

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

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

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

(5) The net profit received by an individual taxpayer from the rental of real estate owned directly by the individual, or by a disregarded entity owned by the individual, shall be subject to the City’s tax only if the property generating the net profit is located in the City or if the individual taxpayer that receives the net profit is a resident of the City. The City shall allow such taxpayers to elect to use separate accounting for the purpose of calculating net profit sitused under this division to the municipal corporation in which the property is located.

(6)(a) Commissions received by a real estate agent or broker relating to the sale, purchase, or lease of real estate shall be sitused to the municipal corporation in which the real estate is located. Net profit reported by the real estate agent or broker shall be allocated to the City, if applicable, based upon the ratio of the commissions the agent or broker received from the sale, purchase, or lease of real estate located in the City to the commissions received from the sale, purchase, or lease of real estate everywhere in the taxable year.

(b) An individual who is a resident of the City shall report the individual's net profit from all real estate activity on the individual's annual tax return for the City. The individual may claim a credit for taxes the individual paid on such net profit to another municipal corporation to the extent that such a credit is allowed under the City’s income tax ordinance.
EXHIBIT “A”

(7) When calculating the ratios described in division (F)(1) of this section for the purposes of that division or division (F)(2) 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.

(8) Left intentionally blank.

CHAPTER 1717

COLLECTION AT SOURCE

1717.01 COLLECTION AT SOURCE.

Withholding provisions.

(A) Each employer, agent of an employer, or other payer located or doing business in the City shall withhold an income tax from the qualifying wages earned and/or received by each employee in the City. Except for qualifying wages for which withholding is not required under Section 1716.01 or division (B)(4) or (6) of this section, the tax shall be withheld at the rate, specified in Section 1716.01 of this Part Seventeen - Title Two, of two and one half percent (2.5%). 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.

(B)(1) Except as provided in division (B)(2) of this section, an employer, agent of an employer, or other payer shall remit to the Tax Administrator of the City 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 according to the following schedule:

(a) 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 City in the preceding calendar year exceeded $2,399, or if the total amount of taxes deducted and withheld on behalf of the City in any month of the preceding calendar quarter exceeded $200. Payment under division (B)(1)(a) of this section shall be made so that the payment is received by the Tax Administrator not later than 15 days after the last day of each month for which the tax was withheld.

(b) Any employer, agent of an employer, or other payer not required to make payments under division (B)(1)(a) of this section of taxes required to be deducted and withheld shall make quarterly payments to the Tax Administrator not later than the 15th day of the month following the end of each calendar quarter.

(c) Notwithstanding the provisions of Section (B)(1)(a) and (b) of this section, taxes required to be deducted and withheld shall be remitted semimonthly to the Tax Administrator if the total taxes deducted and withheld or required to be deducted and withheld on behalf of the City in the
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preceding calendar year exceeded $11,999, or if in any month of the preceding calendar year exceeded $1,000. Payment under division (B)(1)(c) of this section shall be made so that the payment is received by the Tax Administrator not later than one of the following: i) if the taxes were deducted and withheld or required to be deducted and withheld during the first fifteen days of a month, the third banking day after the fifteenth day of that month; (ii) if the taxes were deducted and withheld or required to be deducted and withheld after the fifteenth day of a month and before the first day of the immediately following month, the third banking day after the last day of the month.

(2) If the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under Section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation, the payment shall be made by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the City. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section.

(3) 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 Tax Administrator and the City as the return required of a non-resident employee whose sole income subject to the tax under this Part Seventeen - Title Two is the qualifying wages reported by the employee's employer, agent of an employer, or other payer.

(4) An employer, agent of an employer, or other payer is not required to withhold the City 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.

(5)(a) 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 Part Seventeen - Title Two or by the employer's, agent's, or other payer's exemption from the requirement to withhold the tax.

(b) The failure of an employer, agent of an employer, or other payer to remit to the City 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.

(6) Compensation deferred before June 26, 2003, is not subject to the City income tax or 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.

(7) 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 City until such time as the withheld amount is remitted to the Tax Administrator.

(8) On or before the last day of February of each year, an employer shall file a withholding reconciliation return with the Tax Administrator listing:

(a) The names, addresses, and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the City during the preceding calendar year;

(b) The amount of tax withheld, if any, from each such employee, the total amount of qualifying wages paid to such employee during the preceding calendar year;

(c) 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;

(d) 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;

(e) Other information as may be required by the Tax Administrator.

(9) 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.

(10) An employer is required to deduct and withhold the City income tax on tips and gratuities received by the employer's employees and constituting qualifying wages, but 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.

(11) The 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 Part Seventeen - Title Two, to be tax required to be withheld and remitted for the purposes of this section.

**Occasional Entrant - Withholding.**

(C)(1) As used in this division:

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

(c) "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 (C)(2)(a)(i) 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 determined in accordance with division (C)(2)(b) of this section, except that "location" shall be substituted for "municipal corporation" wherever "municipal corporation" appears in that division.

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

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

(f) "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.

(g) "Worksite location" means a construction site or other temporary worksite in this state at which the employer provides services for more than 20 days during the calendar year. "Worksite location" does not include the home of an employee.

(2)(a) Subject to divisions (C)(3), (5), (6), and (7) of this section, an employer is not required to withhold the City income tax on qualifying wages paid to an employee for the performance of personal services in the City if the employee performed such services in the City on 20 or fewer days in a calendar year, unless one of the following conditions applies:
(i) The employee's principal place of work is located in the City.

(ii) The employee performed services at one or more presumed worksite locations in the City. For the purposes of this division, "presumed worksite location" means a construction site or other temporary worksite in the City at which the employer provides or provided services that can reasonably be, or would have been, expected by the employer to last more than 20 days in a calendar year. Services can "reasonably be expected by the employer to last more than 20 days" if either of the following applies at the time the services commence:

(a) The nature of the services are such that it will require more than 20 days of the services to complete the services;

(b) The agreement between the employer and its customer to perform services at a location requires the employer to perform the services at the location for more than 20 days.

(iii) The employee is a resident of the City and has requested that the employer withhold tax from the employee's qualifying wages as provided in Section 1717.01.

(iv) 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.

(b) For the purposes of division (C)(2)(a) of this section, an employee shall be considered to have spent a day performing services in the City only if the employee spent more time performing services for or on behalf of the employer in the City 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:

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

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

(iii) 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;

(iv) Transporting or delivering property described in division (C)(2)(b)(iii) 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;
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(v) Traveling from the location at which the employee makes the employee's final delivery or pick-up for the day to either the employee's principal place of work or a location at which the employee will not perform services for the employer.

(3) If the principal place of work of an employee is located in another Ohio municipal corporation that imposes an income tax, the exception from withholding requirements described in division (C)(2)(a) 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 that municipal corporation.

(4)(a) Except as provided in division (C)(4)(b) of this section, if, during a calendar year, the number of days an employee spends performing personal services in the City exceeds the 20-day threshold, the employer shall withhold and remit tax to the City for any subsequent days in that calendar year on which the employer pays qualifying wages to the employee for personal services performed in the City.

(b) An employer required to begin withholding tax for the City under division (C)(4)(a) of this section may elect to withhold tax for the City for the first 20 days on which the employer paid qualifying wages to the employee for personal services performed in the City.

(5) If an employer’s fixed location is in the City and the employer qualifies as a small employer as defined in Section 1715.01, the 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 City, regardless of the number of days which the employee worked outside the corporate boundaries of the City.

To determine whether an employer qualifies as a small employer for a taxable year, the employer will be required to provide the Tax Administrator with the employer's federal income tax return for the preceding taxable year.

(6) Divisions (C)(2)(a) and (4) 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 4.

CHAPTER 1718

ANNUAL RETURN; FILING; ESTIMATES; REFUNDS

1718.01 ANNUAL RETURN; FILING.

(A) An annual City income tax return shall be completed and filed by every individual taxpayer eighteen (18) years of age or older and any taxpayer that is not an individual for each taxable year for which the taxpayer is subject to the tax, whether or not a tax is due thereon.

(1) The Tax Administrator may accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer under Section 1718.01 of this Part Seventeen - Title Two 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 the City.

(2) Retirees having no Municipal Taxable Income for City income tax purposes may file with the Tax Administrator a written exemption from these filing requirements on a form prescribed by the Tax Administrator. The written exemption shall indicate the date of retirement and the entity from which retired. The exemption shall be in effect until such time as the retiree receives Municipal Taxable Income taxable to the City, at which time the retiree shall be required to comply with all applicable provisions of this Part Seventeen - Title Two.

(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 City, 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.

(D) Returns or notices required of an estate or a trust shall be completed and filed by the fiduciary of the estate or trust.

(E) The City shall permit spouses to file a joint return.

(F)(1) Each return required to be filed under this division 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. The return 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) The Tax Administrator shall require a taxpayer who is an individual to include, with each annual return and amended return, copies of the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return, any other documentation necessary to support 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) The Tax Administrator may require a taxpayer that is not an individual 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.
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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.

(4) After a taxpayer files a tax return, the Tax Administrator may request, and the taxpayer shall provide, any information, statements, or documents required by the City 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.

(G)(1)(a) Except as otherwise provided in this Part Seventeen - Title Two, 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 ORC. 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 City. No remittance is required if the net amount due is ten dollars or less.

(b) Except as otherwise provided in this Part Seventeen - Title Two, each annual net profit 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. 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 City. No remittance is required if the net amount due is ten dollars or less.

(2) 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 the City’s income tax return. The extended due date of the City’s income tax return shall be the 15th day of the tenth month after the last day of the taxable year to which the return relates. An extension of time to file under this division is not an extension of the time to pay any tax due unless the Tax Administrator grants an extension of that date.

(a) A copy of the federal extension request shall be included with the filing of the City’s income tax return.

(b) 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 City income tax return. If the request is received by the Tax Administrator on or before the date the City income tax return is due, the Tax Administrator shall grant the taxpayer’s requested extension.

(3) If the tax commissioner extends for all taxpayers the date for filing state income tax returns under division (G) of Section 5747.08 of the ORC, a taxpayer shall automatically receive an
extension for the filing of the City’s income tax return. The extended due date of the City’s income tax return shall be the same as the extended due date of the state income tax return.

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

(5) To the extent that any provision in this division (G) of this section conflicts with any provision in divisions (N), (O), (P), or (Q) of this section, the provisions in divisions (N), (O), (P), or (Q) prevail.

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

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

(I) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. This division shall not apply to payments required to be made under division (B)(1)(a) of Section 1717.01 or provisions for semi-monthly withholding.

(J) Taxes withheld for the City an employer, the agent of an employer, or other payer as described in Section 1717.01 shall be allowed to the taxpayer as credits against payment of the tax imposed on the taxpayer by the City, unless the amounts withheld were not remitted to the City 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 City to be filed in accordance with this division 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.

(L) The Tax Administrator shall accept for filing a generic form of any income tax return, report, or document required by the City, provided that the generic form, once completed and filed, contains all of the information required by ordinance, resolution, or rules and regulations adopted by the City or the Tax Administrator, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Part Seventeen - Title Two and of the City’s ordinance, resolution, or rules and regulations governing the filing of returns, reports, or documents.

Filing via Ohio Business Gateway.
EXHIBIT “A”

(M)(1) Any taxpayer subject to municipal income taxation with respect to the taxpayer's net profit from a business or profession may file the City’s income tax return, estimated municipal income tax return, or extension for filing a municipal income tax return, and may make payment of amounts shown to be due on such returns, by using the Ohio Business Gateway.

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

(3) Nothing in this section affects the due dates for filing employer withholding tax returns.

Extension for service in or for the armed forces.

(N) Each member of the national guard of any state and each member of a reserve component of the armed forces of the United States called to active duty pursuant to an executive order issued by the president of the United States or an act of the congress of the United States, and each civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces, may apply to the Tax Administrator of the City for both an extension of time for filing of the return and an extension of time for payment of taxes required by the City during the period of the member's or civilian's duty service, and for 180 days thereafter. The application shall be filed on or before the one hundred eightieth day after the member's or civilian's duty terminates. An applicant shall provide such evidence as the Tax Administrator considers necessary to demonstrate eligibility for the extension.

(O)(1) If the Tax Administrator ascertains that an applicant is qualified for an extension under this section, the Tax Administrator shall enter into a contract with the applicant for the payment of the tax in installments that begin on the 181st day after the applicant's active duty or service terminates. The Tax Administrator may prescribe such contract terms as the Tax Administrator considers appropriate. However, taxes pursuant to a contract entered into under this division are not delinquent, and the Tax Administrator shall not require any payments of penalties or interest in connection with those taxes for the extension period.

(2) If the Tax Administrator determines that an applicant is qualified for an extension under this section, the applicant shall neither be required to file any return, report, or other tax document nor be required to pay any tax otherwise due to the municipal corporation before the 181st day after the applicant's active duty or service terminates.

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

(P)(1) Nothing in this division denies to any person described in this division the application of divisions (N) and (O) of this section.

(2)(a) A qualifying taxpayer who is eligible for an extension under the Internal Revenue Code shall receive both an extension of time in which to file any return, report, or other tax document
and an extension of time in which to make any payment of taxes required by a municipal corporation in accordance with this Part Seventeen - Title Two. The length of any extension granted under division (P)(2)(a) of this section shall be equal to the length of the corresponding extension that the taxpayer receives under the Internal Revenue Code. As used in this division, "qualifying taxpayer" means a member of the national guard or a member of a reserve component of the armed forces of the United States called to active duty pursuant to either an executive order issued by the president of the United States or an act of the congress of the United States, or a civilian serving as support personnel in a combat zone or contingency operation in support of the armed forces.

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

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

**Consolidated municipal income tax return.**

(R) 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 (R)(1) of this section.

(4) "Incumbent local exchange carrier" has the same meaning as in Section 4927.01 of the ORC.

(5) "Local exchange telephone service" has the same meaning as in Section 5727.01 of the ORC.
(S)(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 City’s 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. 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. 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 (S)(2) of this section or 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 (S)(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 (S)(1) or (2) of this section is binding on all members of the affiliated group of corporations subject to a municipal income tax.

(T) 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 City 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 City. A taxpayer that is required to file a consolidated City income tax return for a taxable year shall file a consolidated City 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.

(U) A taxpayer shall prepare a consolidated City 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.

(V)(1) Except as otherwise provided in divisions (V)(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 1715.01, 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 City income tax return shall make any adjustment otherwise required under division (2)(C)(1) of this section 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 percent (80%) 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 City 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 divisions (R) through (Y) of Section 1718.01, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City. 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 divisions (R) through (Y) of Section 1718.01 include the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City. 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 percent 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 divisions (R) through (Y) of Section 1718.01, exclude the property, payroll, and gross receipts of the pass-through entity in the computation of the affiliated group's net profit sitused to the City;

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

(W) Corporations filing a consolidated City income tax return shall make the computations required under divisions (R) through (Y) of Section 1718.01 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.

(X) Each corporation filing a consolidated City income tax return is jointly and severally liable for any tax, interest, penalties, fines, charges, or other amounts imposed by the City in accordance with this Part Seventeen - Title Two 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.

(Y) Corporations and their affiliates that made an election or entered into an agreement with the City before January 1, 2016, to file a consolidated or combined tax return with the City 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.

1718.02 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(A) Every individual taxpayer domiciled in the City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this Part Seventeen - Title Two may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (C) of this section, the credit shall not exceed the tax due the City under this Part Seventeen - Title Two.

(B) The City shall grant a credit against its tax on income to a resident of the City who works in a joint economic development zone created under Section 715.691 of the ORC or a joint economic development district created under Section 715.70, 715.71, or 715.72 of the ORC to the same extent that it grants a credit against its tax on income to its residents who are employed in another municipal corporation.

(C) If the amount of tax withheld or paid to the other municipality is less than the amount of tax required to be withheld or paid to the other municipality, then for purposes of division (A) of this section, “the income, qualifying wages, commissions, net profits or other compensation” subject to tax in the other municipality shall be limited to the amount computed by dividing the tax withheld or paid to the other municipality by the tax rate for that municipality.

(D) Intentionally left blank.

1718.03 ESTIMATED TAXES.

(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 the City's income tax for the current taxable year.

(2) "Tax liability" means the total taxes due to the City 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 $200. For the purposes of this section:
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(a) Taxes withheld for the City from qualifying wages shall be considered as paid to the City in equal amounts on each payment date unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case they 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.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes. A taxpayer may amend a declaration under rules prescribed by the Tax Administrator. A taxpayer having a taxable year of less than twelve months shall make a declaration under rules prescribed by the Tax Administrator.

(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 1718.01 or on or before the fifteenth (15th) day of the fourth month 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 (15th) 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 City, 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 (15th) day of the fourth month after the beginning of the taxable year, twenty-two and one-half percent (22.5%) of the tax liability for the taxable year;

(b) On or before the fifteenth (15th) day of the sixth month after the beginning of the taxable year, forty-five percent (45%) of the tax liability for the taxable year;

(c) On or before the fifteenth (15th) day of the ninth month after the beginning of the taxable year, sixty-seven and one-half percent (67.5%) of the tax liability for the taxable year;

(d) On or before the fifteenth (15th) day of the twelfth month of the taxable year, ninety percent (90%) of the tax liability for the taxable year.

(2) 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.
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(3) On or before the fifteenth (15th) 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 718.05 of the ORC.

(D)(1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 1720.06 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 percent (22.5%) 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 percent (45%) 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 percent (67.5%) 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 percent (90%) 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 percent (90%) 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 percent (100%) 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 City under Section 1718.01 for that year.

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

1718.04 ROUNDED OF AMOUNTS.
A person may round to the nearest whole dollar all amounts the person is required to enter on any return, report, voucher, or other document required under this Part Seventeen - Title Two. Any fractional part of a dollar that equals or exceeds fifty cents shall be rounded to the next whole dollar, and any fractional part of a dollar that is less than fifty cents shall be dropped. If a person chooses to round amounts entered on a document, the person shall round all amounts entered on the document.

1718.05 REQUESTS FOR REFUNDS.

(A) As used in this section, "withholding tax" has the same meaning as in Section 1720.06.

(B) Upon receipt of a request for a refund, the Tax Administrator, 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 municipal corporation:

(1) Overpayments of ten dollars or more;

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

(C)(1) Except as otherwise provided in this Part Seventeen - Title Two, requests for refund shall be filed with the Tax Administrator, on the form prescribed by the Tax Administrator within three years after the tax was due or paid, whichever is later. The Tax Administrator may require the requestor to file with the request any documentation that substantiates the requestor's claim for a refund.

(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 (C)(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 1722.01.

(D) A request for a refund that is received after the last day for filing specified in division (C) 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.

(E) 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 90 days after the final filing date of the annual return or 90 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 Section 1720.06(A)(4).

1718.06 SECOND MUNICIPALITY IMPOSING TAX AFTER TIME PERIOD ALLOWED FOR REFUND.

(A) Income tax that has been deposited with the City, but should have been deposited with another municipality, is allowable by the City as a refund but is subject to the three-year limitation on refunds.

(B) Income tax that was deposited with another municipality but should have been deposited with the City is subject to recovery by the City. If the City’s tax on that income is imposed after the time period allowed for a refund of the tax or withholding paid to the other municipality, the City shall allow a nonrefundable credit against the tax or withholding the City claims is due with respect to such income or wages, equal to the tax or withholding paid to the first municipality with respect to such income or wages.

(C) If the City’s tax rate is less than the tax rate in the other municipality, then the nonrefundable credit shall be calculated using the City’s tax rate. However, if the City’s tax rate is greater than the tax rate in the other municipality, the tax due in excess of the nonrefundable credit is to be paid to the City, along with any penalty and interest that accrued during the period of nonpayment.

(D) Nothing in this section permits any credit carryforward.

1718.07 AMENDED RETURNS.

(A)(1) If a taxpayer’s tax liability shown on the annual tax return for the City changes as a result of an adjustment to the taxpayer’s federal or state income tax return, the taxpayer shall file an amended return with the City. The amended return shall be filed on a form required by the Tax Administrator.
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(2) 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, no payment need be made. The amended return shall 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 only:

   (i) to determine the amount of tax that would be due if all facts, figures, computations, and attachments were reopened; or,

   (ii) if the applicable statute of limitations for civil actions or prosecutions under Section 1719.01 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; i.e., the payment shall be the lesser of the two amounts.

(C)(1) In the case of an overpayment, a request for refund may be filed under this division within the period prescribed by division (E) of Section 1719.01 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 less than ten dollars, no refund need be paid by the City. A request filed under this division shall claim refund of overpayments resulting from alterations only to 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 1718.05.

(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. All facts, figures, computations, and attachments may be reopened to determine the refund amount due by inclusion of all facts, figures, computations, and attachments.

(D) Within 60 days after the final determination of any federal or state tax liability affecting the taxpayer's City tax liability, that taxpayer shall make and file an amended City return showing income subject to City income tax based upon such final determination of federal or state tax liability. The taxpayer shall pay any additional City income tax shown due thereon or make a claim for refund of any overpayment, unless the tax or overpayment is less than ten dollars.

CHAPTER 1719

LIMITATIONS
1719.01 LIMITATIONS.

(A)(1)(a) Civil actions to recover municipal income taxes and penalties and interest on municipal income taxes shall be brought within the later 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 the Board of Tax Review the request described in Section 1722.01. That date shall not be affected by any subsequent decision, finding, or holding by any administrative body or court that the Board of Tax Review 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 Board of Tax Review becomes final or, if any party appeals from the determination of the Board of Tax Review, the sixtieth day after the date on which the final determination of the 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 percent (25%) 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 1718.05.

(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 City 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 Board of Tax Review, 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 resultant amount due is less than the amount paid, a
refund will be paid in the amount of the overpayment as provided by Section 1718.05, with interest on that amount as provided by division (E) of Section 1718.05.

(E) No civil action to recover City 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.

CHAPTER 1720

AUDITS; ASSESSMENTS; CONFIDENTIALITY; INTEREST AND PENALTIES

1720.01 AUDITS.

(A) At or before the commencement of an audit, the Tax Administrator shall provide to the taxpayer a written description of the roles of the Tax Administrator and of the taxpayer during the audit and a statement of the taxpayer's rights, including any right to obtain a refund of an overpayment of a 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.

1720.02 SERVICE OF ASSESSMENT.

(A) As used in this section:

   (1) "Last known address" means the address the Tax Administrator has at the time a document is originally sent by certified mail, or any address the Tax Administrator can ascertain using reasonable means such as the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC.

   (2) "Undeliverable address" means an address to which the postal service or an authorized delivery service under Section 5703.056 of the ORC is not able to deliver an assessment of the Tax Administrator, except when the reason for non-delivery is because the addressee fails to acknowledge or accept the assessment.

(B) Subject to division (C) of this section, a copy of each assessment shall be served upon the person affected thereby either by personal service, by certified mail, or by a delivery service authorized under Section 5703.056 of the ORC. With the permission of the person affected by an assessment, 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.

(C)(1)(a) If certified mail is returned because of an undeliverable address, a Tax Administrator shall utilize reasonable means to ascertain a new last known address, including the use of a change of address service offered by the postal service or an authorized delivery service under Section 5703.056 of the ORC. If the Tax Administrator is unable to ascertain a new last known address, the assessment shall be sent by ordinary mail and considered served. If the ordinary mail is subsequently returned because of an undeliverable address, the assessment remains appealable within 60 days after the assessment's postmark.

   (b) Once the Tax Administrator or other City official, or the designee of either, serves an assessment on the person to whom the assessment is directed, the person may protest the ruling of that assessment by filing an appeal with the Board of Tax Review within 60 days after the receipt of service. The delivery of an assessment of the Tax Administrator under division (C)(1)(a) of this section is prima facie evidence that delivery is complete and that the assessment is served.

   (2) If mailing of an assessment by a Tax Administrator by certified mail is returned for some cause other than an undeliverable address, the Tax Administrator shall resend the assessment by
EXHIBIT “A”

ordinary mail. The assessment shall show the date the Tax Administrator sends the assessment and include the following statement:

"This assessment is deemed to be served on the addressee under applicable law ten days from the date this assessment was mailed by the Tax Administrator as shown on the assessment, and all periods within which an appeal may be filed apply from and after that date."

Unless the mailing is returned because of an undeliverable address, the mailing of that information is prima facie evidence that delivery of the assessment was completed ten days after the Tax Administrator sent the assessment by ordinary mail and that the assessment was served.

If the ordinary mail is subsequently returned because of an undeliverable address, the Tax Administrator shall proceed under division (C)(1)(a) of this section. A person may challenge the presumption of delivery and service under this division in accordance with division (D) of this section.

(D)(1) A person disputing the presumption of delivery and service under division (C) of this section bears the burden of proving by a preponderance of the evidence that the address to which the assessment was sent by certified mail was not an address with which the person was associated at the time the Tax Administrator originally mailed the assessment. 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 20 percent, 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 (D)(1) of this section, and if that assessment is subject to collection and is not otherwise appealable, the person must do so within 60 days after the initial contact by the Tax Administrator or other City 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 Board of Tax Review.

(E) Nothing in this section prohibits the Tax Administrator or the Tax Administrator's designee from delivering an assessment by a Tax Administrator by personal service.

(F) Collection actions taken upon any assessment being appealed under division (C)(1)(b) of this section, including those on which a claim has been delivered for collection, shall be stayed upon the pendency of an appeal under this section.

(G) Additional regulations as detailed in the Rules and Regulations shall apply.

1720.03 ADMINISTRATION OF CLAIMS.
(A) As used in this section, "claim" means a claim for an amount payable to the City that arises pursuant to the City’s income tax imposed in accordance with this Part Seventeen - Title Two.

(B) Nothing in this Part Seventeen - Title Two prohibits a Tax Administrator from doing either of the following if such action is in the best interests of the City:

(1) Compromise a claim;

(2) Extend for a reasonable period the time for payment of a claim by agreeing to accept monthly or other periodic payments.

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

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

(E) A compromise or payment-over-time agreement with respect to a claim shall be void if the taxpayer defaults under the compromise or agreement or if the compromise or agreement was obtained by fraud or by misrepresentation of a material fact. Any amount that was due before the compromise or agreement and that is unpaid shall remain due, and any penalties or interest that would have accrued in the absence of the compromise or agreement shall continue to accrue and be due.

1720.04 TAX INFORMATION CONFIDENTIAL.

(A) Any information gained as a result of returns, investigations, hearings, or verifications required or authorized by this Part Seventeen - Title Two 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 City as authorized by this Part Seventeen - Title Two. The Tax Administrator or a designee thereof may furnish copies of returns filed or otherwise received under this Part Seventeen - Title Two and other related tax information to the internal revenue service, the tax commissioner, and tax administrators of other municipal corporations.

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

1720.05 FRAUD.

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

1720.06 INTEREST AND PENALTIES.

(A) As used in this section:

(1) "Applicable law" means this Part Seventeen - Title Two, the resolutions, ordinances, codes, directives, instructions, and rules adopted by the City provided they impose or directly or indirectly address the levy, payment, remittance, or filing requirements of the City.

(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" means any income tax, estimated income tax, and withholding tax imposed by the City 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 percent, plus five percent. 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 the Tax Administrator or the City 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 applies 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 City 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 and regulations, as adopted before January 1, 2016, of the City to which the return is to be filed or the payment is to be made.

(C) Should any taxpayer, employer, agent of the employer, or other payer for any reason fail(s, in whole or in part, to make timely and full payment or remittance of income tax, estimated income tax, or withholding tax or to file timely with the City any return required to be filed, the following penalties and interest shall apply:

(1) Interest shall be imposed at the rate described in division (A) of this section, per annum, on all unpaid income tax, unpaid estimated income tax, and unpaid withholding tax.

(2)(a) With respect to unpaid income tax and unpaid estimated income tax, the City may impose a penalty equal to fifteen percent (15%) of the amount not timely paid.

(b) With respect to any unpaid withholding tax, the City may impose a penalty equal to fifty percent (50%) of the amount not timely paid.

(3) With respect to returns other than estimated income tax returns, the City may impose a penalty of $25 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 $150 for each failure.

(D) Nothing in this section requires the City to refund or credit any penalty, amount of interest, charges, or additional fees that the City has properly imposed or collected before January 1, 2016.

(E) Nothing in this section limits the authority of the City to abate or partially abate penalties or interest imposed under this section when the Tax Administrator determines, in the Tax Administrator's sole discretion, that such abatement is appropriate.

(F) By the 31st day of October of each year the City shall publish the rate described in division (A) of this section applicable to the next succeeding calendar year.

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

CHAPTER 1721
AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION; OPINION OF TAX ADMINISTRATOR

1721.01 AUTHORITY OF TAX ADMINISTRATOR; VERIFICATION OF INFORMATION.

Authority.

(A) Nothing in this Part Seventeen - Title Two shall limit the authority of the Tax Administrator to perform any of the following duties or functions, unless the performance of such duties or functions is expressly limited by a provision of the ORC:

1. (a) Exercise all powers whatsoever of any nature as provided by law, including, the right to inspect books, accounts, records, memorandums, and federal and state income tax returns, to examine persons under oath, to issue orders or subpoenas for the production of books, accounts, papers, records, documents, and testimony, to take depositions, to apply to a court for attachment proceedings as for contempt, to approve vouchers for the fees of officers and witnesses, and to administer oaths.

   (b) The powers referred to in this division of this section shall be exercised by the Tax Administrator only in connection with the performance of the duties respectively assigned to the Tax Administrator under the City’s income tax ordinance;

2. Appoint agents and prescribe their powers and duties;

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

4. Exercise the authority provided by law, including orders from bankruptcy courts, relative to remitting or refunding taxes, including penalties and interest thereon, for any reason overpaid. In addition, the Tax Administrator may investigate any claim of overpayment and, if the Tax Administrator finds that there has been an overpayment, make a written statement of the Tax Administrator's findings, and approve and issue a refund payable to the taxpayer, the taxpayer's assigns, or legal representative as provided in this Part Seventeen - Title Two;

5. Exercise the authority provided by law relative to consenting to the compromise and settlement of tax claims;

6. Exercise the authority provided by law relative to the use of alternative apportionment methods by taxpayers in accordance with Section 1716.01;

7. (a) Make all tax findings, determinations, computations, and orders the Tax Administrator is by law authorized and required to make and, pursuant to time limitations provided by law, on the Tax Administrator's own motion, review, re-determine, or correct any tax findings, determinations, computations, or orders the Tax Administrator has made.
EXHIBIT “A”

(b) If an appeal has been filed with the Board of Tax Review or other appropriate tribunal, the Tax Administrator shall not review, re-determine, or correct any tax finding, determination, computation, or order which the Tax Administrator has made, unless such appeal or application is withdrawn by the appellant or applicant, is dismissed, or is otherwise final;

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

(9) Enter into an agreement with a taxpayer to simplify the withholding obligations described in Section 1717.01.

Verification of accuracy of returns and determination of liability.

(B)(1) A Tax Administrator, or any authorized agent or employee thereof may examine the books, papers, records, and federal and state income tax returns of any employer, taxpayer, or other person that is subject to, or that the Tax Administrator believes is subject to, the provisions of this Part Seventeen - Title Two for the purpose of verifying the accuracy of any return made or, if no return was filed, to ascertain the tax due under this Part Seventeen - Title Two. Upon written request by the Tax Administrator or a duly authorized agent or employee thereof, every employer, taxpayer, or other person subject to this section is required to furnish the opportunity for the Tax Administrator, authorized agent, or employee to investigate and examine such books, papers, records, and federal and state income tax returns at a reasonable time and place designated in the request.

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

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

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

(C)(1) Nothing in this Part Seventeen - Title Two prohibits the Tax Administrator from requiring any person filing a tax document with the Tax Administrator to provide identifying information, which may include the person's social security number, federal employer identification number, or other identification number requested by the Tax Administrator. A person required by the Tax Administrator to provide identifying information that has experienced any change with respect to that information shall notify the Tax Administrator of the change before, or upon, filing the next tax document requiring the identifying information.

(2)(a) If the Tax Administrator makes a request for identifying information and the Tax Administrator does not receive valid identifying information within 30 days of making the request, nothing in this Part Seventeen - Title Two prohibits the Tax Administrator from imposing a penalty upon the person to whom the request was directed pursuant to Section 1720.06, in addition to any applicable penalty described in Section 1726.01.

(b) If a person required by the Tax Administrator to provide identifying information does not notify the Tax Administrator of a change with respect to that information as required under division (C) of Section 1721.01 within 30 days after filing the next tax document requiring such identifying information, nothing in this Part Seventeen - Title Two prohibits the Tax Administrator from imposing a penalty pursuant to Section 1720.06.

(c) The penalties provided for under divisions (C)(2)(a) and (b) of this section may be billed and imposed in the same manner as the tax or fee with respect to which the identifying information is sought and are in addition to any applicable criminal penalties described in Section 1726.01 for a violation of Section 1720.05 and any other penalties that may be imposed by the Tax Administrator by law.

1721.02 REQUEST FOR OPINION OF THE TAX ADMINISTRATOR.

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

(B) A taxpayer may submit a written request for an opinion of the Tax Administrator in accordance with the Rules and Regulations.

(C) A taxpayer is not relieved of tax liability for any activity or transaction related to a request for an opinion that contained any misrepresentation or omission of one or more material facts.

(D) A Tax Administrator may refuse to offer an opinion on any request received under this section. Such refusal is not subject to appeal.

(E) An opinion of the Tax Administrator binds the Tax Administrator only with respect to the taxpayer for whom the opinion was prepared and does not bind the Tax Administrator of any other municipal corporation.
(F) An opinion of the Tax Administrator issued under this section is not subject to appeal.

CHAPTER 1722
BOARD OF TAX REVIEW

1722.01 BOARD OF TAX REVIEW.

(A)(1) The Board of Tax Review shall consist of three members. Two members shall be appointed by the legislative authority of the City, but such appointees may not be employees, elected officials, or contractors with the City at any time during their term or in the five years immediately preceding the date of appointment. One member shall be appointed by the City Manager of the City. This member may be an employee of the City, 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.

(2) The term for members of the Board of Tax Review for the City shall be two years. There is no limit on the number of terms that a member may serve if the member is reappointed by the legislative authority. The board member appointed by the City Manager of the City shall serve at the discretion of the administrative official.

(3) Members of the Board of Tax Review appointed by the legislative authority may be removed by the legislative authority by majority vote for malfeasance, misfeasance, or nonfeasance in office. To remove such a member, the legislative authority must give the member a copy of the charges against the member and afford the member an opportunity to be publicly heard in person or by counsel in the member's own defense upon not less than ten days' notice. The decision by the legislative authority on the charges is final and not appealable.

(4) A member of the Board of Tax Review who, for any reason, ceases to meet the qualifications for the position prescribed by this section shall resign immediately by operation of law.

(5) A vacancy in an unexpired term shall be filled in the same manner as the original appointment within 60 days of when the vacancy was created. Any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall hold office for the remainder of such term. No vacancy on the Board of Tax Review shall impair the power and authority of the remaining members to exercise all the powers of the Board of Tax Review.

(6) If a member is temporarily unable to serve on the Board of Tax Review 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 of Tax Review in the member's place. The appointment of such an individual 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.

(C) Any person who has been issued an assessment may appeal the assessment to the Board of Tax Review by filing a request with the Board of Tax Review. 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 60 days after the taxpayer receives the assessment.

(D) The Board of Tax Review shall schedule a hearing to be held within 60 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 of Tax Review and may be represented by an attorney at law, certified public accountant, or other representative. The Board of Tax Review may allow a hearing to be continued as jointly agreed to by the parties. In such a case, the hearing must be completed within 120 days after the first day of the hearing unless the parties agree otherwise.

(E) The Board of Tax Review may affirm, reverse, or modify the Tax Administrator's assessment or any part of that assessment. The Board of Tax Review shall issue a final determination on the appeal within 90 days after the Board of Tax Review'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 15 days after issuing the final determination. The taxpayer or the Tax Administrator may appeal the Board of Tax Review's final determination as provided in Section 5717.011 of the ORC.

(F) The Board of Tax Review created pursuant to this section shall adopt rules governing its procedures and shall keep a record of its transactions. Such records are not public records available for inspection under Section 149.43 of the ORC. Hearings requested by a taxpayer before a Board of Tax Review created pursuant to this section are not meetings of a public body subject to Section 121.22 of the ORC.

CHAPTER 1723

AUTHORITY TO CREATE RULES AND REGULATIONS

1723.01 AUTHORITY TO CREATE RULES AND REGULATIONS.

Nothing in Part Seventeen - Title Two prohibits the legislative authority of the City, or a Tax Administrator pursuant to authority granted to the administrator by resolution or ordinance, to adopt rules to administer an income tax imposed by the City in accordance with this Part Seventeen - Title Two. Such rules shall not conflict with or be inconsistent with any provision of this Part.
Seventeen - Title Two. Taxpayers are hereby required to comply not only with the requirements of Part Seventeen - Title Two, but also to comply with the Rules and Regulations.

All rules adopted under this section shall be published and posted on the internet.

CHAPTER 1724

RENTAL AND LEASED PROPERTY; CONTRACT PROVISIONS

1724.01 RENTAL AND LEASED PROPERTY.

(A) All property owners of real property located in the City, who rent or otherwise lease the same, or any part thereof, to any person for residential dwelling purposes, including apartments, rooms and other rental accommodations, during any calendar year, or part thereof, commencing with the effective date of this section, shall file with the Tax Administrator on or before the January 31 first following such calendar year a written report disclosing the name, address and also telephone number, if available, of each tenant known to have occupied on December 31 during such calendar year such apartment, room or other residential dwelling rental property.

(B) The Tax Administrator may order the appearance before him, or his duly authorized agent, of any person whom he believes to have any knowledge of the name, address and telephone number of any tenant of residential rental real property in the City. The Tax Administrator, or his duly authorized agent, is authorized to examine any person, under oath, concerning the name, address and telephone number of any tenant of residential real property located in the City. The Tax Administrator, or his duly authorized agent, may compel the production of papers and records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such person has knowledge of the name, address and telephone number of any tenant of residential real property in the City.

(C) Any property owner or person that violates one or more of the following shall be subject to Section 1726.01 of this Part Seventeen - Title Two:

1. Fails, refuses or neglects to timely file a written report required by division (A) of this section; or

2. Makes an incomplete or intentionally false written report required by division (A) hereof; or

3. Fails to appear before the Tax Administrator or any duly authorized agent and to produce and disclose any tenant information pursuant to any order or subpoena of the Tax Administrator as authorized in this section; or

4. Fails to comply with the provisions of this section or any order or subpoena of the Tax Administrator.
1724.02 CONTRACT PROVISIONS

No contract on behalf of the City for works or improvements of the City shall be binding or valid unless such contract contains the following provisions:

“Said __________ hereby further agrees to withhold all City of Worthington income taxes due or payable under the provisions of Part Seventeen – Title Two of the Codified Ordinances of the City of Worthington, for qualified wages, salaries and commissions paid to its employees and further agrees that any of its subcontractors shall be required to agree to withhold any such City of Worthington income taxes due under said Part Seventeen - Title Two of said Code for services performed under this contract.”

CHAPTER 1725

SAVINGS CLAUSE; COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE; RITA RULES AND REGULATIONS

1725.01 SAVINGS CLAUSE.

This Part Seventeen - Title Two shall not apply to any person, firm or corporation, or to any property as to whom or which it is beyond the power of Council to impose the tax herein provided for. Any sentence, clause, section or part of this Part Seventeen - Title Two or any tax against or exception granted any individual or any of the several groups of persons, or forms of income specified herein if found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this Part Seventeen - Title Two and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this Part Seventeen - Title Two. It is hereby declared to be the intention of Council that this Part Seventeen - Title Two would have been adopted had such unconstitutional, illegal or invalid sentence, or part hereof, not been included therein.

1725.02 COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.

(A) This Part Seventeen - Title Two shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this Part Seventeen - Title Two are concerned, it shall continue effective until all of said taxes levied hereunder in the aforesaid periods are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this Part Seventeen - Title Two shall have been fully terminated, subject to the limitations contained in Section 1719.01 and Section 1726.01 hereof.

(B) Annual returns due for all or any part of the last effective year of this Part Seventeen - Title Two shall be due on the date provided in Section 1718.01 and Section 1717.01 of this Part Seventeen - Title Two as though the same were continuing.

1725.03 ADOPTION OF RITA RULES AND REGULATIONS.
EXHIBIT “A”

The City hereby adopts the Regional Income Tax Agency (RITA) Rules & Regulations, including amendments that may be made from time to time, for use as the City’s Income Tax Rules and Regulations. In the event of a conflict with any provision(s) of this Part Seventeen - Title Two and the RITA Rules & Regulations, this Part Seventeen - Title Two will supersede. Until and if the contractual relationship between the City and RITA ceases, this Section 1725.03 will supersede all other provisions within this Part Seventeen - Title Two regarding promulgation of rules and regulations by the Tax Administrator.

CHAPTER 1726

VIOLATIONS; PENALTIES

1726.01 VIOLATIONS; PENALTIES.

(A) Whoever violates Section 1720.05, division (A) of Section 1720.04, or Section 1717.01 by failing to remit City 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 $1,000 or imprisonment for a term of up to six months, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(B) Any person who discloses information received from the Internal Revenue Service in violation of division (A) of Section 1720.04 shall be guilty of a felony of the fifth degree and shall be subject to a fine of not more than $5,000 plus the costs of prosecution, or imprisonment for a term not exceeding five years, or both. If the individual that commits the violation is an employee, or official, of the City, the individual is subject to discharge from employment or dismissal from office.

(C) Each instance of access or disclosure in violation of division (A) of Section 1720.04 constitutes a separate offense.

(D) If not otherwise specified herein, no person shall:

(1) Fail, neglect or refuse to make any return or declaration required by this ordinance;

(2) File any incomplete or false return;

(3) Fail, neglect or refuse to pay the tax, penalties or interest imposed by this Part Seventeen - Title Two;

(4) Refuse to permit the Tax Administrator or any duly authorized agent or employee to examine his books, records, papers and federal and state income tax returns relating to the income or net profits of a taxpayer;
EXHIBIT “A”

(5) Fail to appear before the Tax Administrator and to produce his books, records, papers or federal and state income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Tax Administrator;

(6) Refuse to disclose to the Tax Administrator any information with respect to the income or net profits of a taxpayer;

(7) Fail to comply with the provisions of this Part Seventeen - Title Two or any order or subpoena of the Tax Administrator authorized hereby;

(8) Give to an employer false information as to his true name, correct social security number, and residence address, or fail to promptly notify an employer of any change in residence address and date thereof;

(9) Attempt to do anything whatsoever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Part Seventeen - Title Two.

(E) Any person who violates any of the provisions in Section 1726.01(D) shall be subject to the penalties provided for in Section 1726.01(A) of this Part Seventeen - Title Two.
MEMORANDUM

TO: Matt Greeson, City Manager
FROM: Molly Roberts, Finance Director
DATE: September 30, 2015
SUBJECT: Required income tax ordinance amendments due to passage of Substitute House Bill 5 (130th General Assembly).

We are required to adopt a new municipal income tax ordinance by December 31, 2015, effective for tax years beginning January 1, 2016. This is necessary due to the actions of the 130th General Assembly with passage of Substitute House Bill Number 5 (Sub. H.B. 5) and Governor Kasich signing the bill into law in December 2014. The passage of Sub. H.B. 5 requires extensive changes to the current municipal tax ordinance. The Regional Income Tax Agency (R.I.T.A.) has provided draft language and guidance for the required municipal income tax ordinance amendments, which have been included in preparation of the legislation being presented to City Council.

It is essential that the new income tax ordinance sections be approved by City Council in order to effectively implement the required changes. In addition, it is equally imperative that we maintain the existing income tax ordinances in order to capture tax years prior to January 1, 2016. According to R.I.T.A., municipalities with income tax ordinances that are not consistent with chapter 718 of the Ohio Revised Code as of January 1, 2016 may not be able to enforce their income tax ordinance or collect income tax revenue. It is vital that we are compliant with the required state modifications, as municipal income tax collections are the primary source of revenue for the City of Worthington.

Attached please find the following:

1) Cover Ordinance for the passage and implementation of the required municipal income tax ordinance amendments.

2) New Title Two of Chapter 17 of the City of Worthington Codified Ordinances.