



CITY OF KETTERING

DONALD E. PATTERSON, MAYOR • BILL LAUTAR, VICE MAYOR
BRUCE E. DUKE • JACQUE FISHER • TONY KLEPACZ • ROB SCOTT • JOSEPH D. WANAMAKER

KETTERING COUNCIL AGENDA

February 27, 2018

Kettering Government Center – South Building
3600 Shroyer Rd. Kettering, Ohio 45429

6:00 P.M. **WORKSHOP** Kettering Room
7:30 P.M. **REGULAR MEETING** Council Chambers

PLEDGE OF ALLEGIANCE

INVOCATION

APPROVAL OF MINUTES

February 13, 2018 - Council Meeting & Workshop Minutes

PROCLAMATIONS, SPECIAL PRESENTATIONS, AWARDS, SPECIAL RESOLUTIONS, APPOINTMENTS TO BOARDS AND COMMISSION

PUBLIC HEARINGS

1. P.C. 17-035- Request for Zoning District Map Amendment to reclassify land from ED-3 and I-Industrial to O-Office.
2. P.C. 18-001- Request for vacation of unused utility easement- 3216 Delaney Street.

PUBLIC COMMENT ON LEGISLATION

(5 Minute Limit per Speaker)

ORDINANCES IN SECOND READING

3. To enact section 152.07 of the Codified Ordinances of the City of Kettering regarding local purchasing preference.

RESOLUTIONS

4. Authorizing the City Manager to enter into an agreement to participate in the construction of a regional fiber optic network.
5. Authorizing the City Manager to use competitive bargaining and negotiated quotes to contract for the Southern Boulevard Crosswalk Improvements Project, City Project No. 02-142K.
6. Authorizing the City Manager to submit, along with the City of Dayton, a joint funding application to the Clean Ohio Green Space Conservation Program for funding to acquire property interests needed for the proposed East Dayton Rails-to-Trails "Flight Line" Bikeway Project, City Project No. 05-004i.
7. Authorizing the City Manager to enter into a façade and site improvement grant agreement for the property located at 3022 Wilmington Pike.
8. Authorizing the City Manager to contract for renovation of the City Manager Offices.
9. Authorizing the City Manager to contract for the rental of musical and performance related backline equipment on a "show by show" and "as needed" basis for the Frazee Pavilion 2018 season.
10. Authorizing the City Manager to enter into one or more agreements for lighting equipment, light technician, and technical director services at the Frazee Pavilion.

11. To authorize the City Manager to enter into a contract for the rental of sound equipment and sound technician services for Frazee Pavilion 2018 season, as well as rental of sound equipment as required by performers on a per show basis.
12. Authorizing the City Manager to accept a donation of carbon monoxide detectors from the Dayton Firefighter's Credit Union.
13. Authorizing the City Manager to accept funds from the Ohio Attorney General's Office to reimburse the City for 2017 continuing professional training of Kettering Police Officers.
14. To make supplemental appropriations for current expenses and other expenditures of the City of Kettering, State of Ohio, during the fiscal year ending December 31, 2018.

ORDINANCES IN FIRST READING

15. To rezone 3980 Wilmington Pike and 3920 Parliament Place (Planning Commission Case No. PC-17-033).
16. To levy special assessments for the replacement and construction of curbs, sidewalks, drive approaches, and related appurtenances for the Oak Creek Improvements-Phase II Project (Project No. 02-289).
17. To levy special assessments for the construction and repair of curbs, sidewalks, driveway approaches, and related appurtenances, for the 2017 Curb, Sidewalk & Drive Approach Repair Program (Project Number 05-117).
18. To amend various sections of Chapter 192 of the Codified Ordinances regarding income tax to incorporate changes required by the State of Ohio and declaring an emergency.

CERTIFICATIONS AND PETITIONS

MANAGER'S REPORT/COMMUNITY UPDATE

OTHER BUSINESS NOT ON WRITTEN AGENDA

Audience Participation (5 Minute Limit per Speaker)

CITY COUNCIL REPORT/UPDATE

The City of Kettering invites people with disabilities to enjoy our programs, services, parks, and facilities. Contact Anna Breidenbach at anna.breidenbach@ketteringoh.org or call 296-2439 for more information about our accessibility, inclusion, and special programs initiatives. For TTY assistance, contact Ohio Relay Service at 800-750-0750.

KETTERING CITY CALENDAR
2018

February 26	7:30 p.m.	Sister Cities
February 27	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting
March 5	7:00 p.m.	Planning Commission
March 12	7:00 p.m.	Board of Zoning Appeals
March 13	4:00 p.m. 6:00 p.m. 7:30 p.m.	Partners for Healthy Youth Council Workshop City Council Meeting
March 19	7:00 p.m. 7:00 p.m.	Planning Commission Board of Community Relations
March 21	8:00 a.m.	Volunteer Advisory Council

March 26	7:00 p.m. 7:30 p.m.	Board of Zoning Appeals Sister Cities
March 27	6:00 p.m. 7:30 p.m.	Council Workshop City Council Meeting

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO ENACT SECTION 152.07 OF THE CODIFIED
ORDINANCES OF THE CITY OF KETTERING
REGARDING LOCAL PURCHASING PREFERENCE**

WHEREAS, City Council recognizes that the success of local businesses ensures a thriving local economy, employment of Kettering citizens, and a strong tax base; and

WHEREAS, City Council finds and determines that it is in the best interests of the City of Kettering to give a preference to local businesses when the City is purchasing commodities and equipment in order to strengthen local economic activity and employment and foster and maintain a vital economic future for the City of Kettering;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, that:

Section 1. Section 152.07 of the Codified Ordinances is enacted to read:

"152.07 KETTERING LOCAL PREFERENCE

A. When using Formal Sealed Bidding or Competitive Bargaining to procure commodities and equipment costing \$200,000 or less, the City may exercise a preference for local business as provided herein.

B. For the purposes of this Section 152.07, the following terms, phrases, words, and their derivations shall have the meanings as set forth herein. When not inconsistent with the context, words in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning. References hereafter to "Sections" are, unless otherwise specified, references to Sections in this Chapter 152. Defined terms remain defined terms whether or not capitalized.

1. "Local business" means an individual or business entity that has continuously maintained a permanent office or other permanent facility (e.g., a manufacturing facility, warehouse, retail store, or other business purpose site) within the corporate limits of the City for the past two successive years preceding the making of a bid and has filed a return and paid a payroll or earnings tax to the City in the most recent quarter.

2. "Qualified local business" means a local business that has submitted a bid conforming to the specifications and who is not otherwise disqualified. Any of these factors will disqualify a local business from eligibility for the local preference: i. being on the debarred contractor list; ii. nonpayment of any tax, fee, lien, service charge, or other assessment; iii. failure to comply with the City's income tax code; iv. failure to faithfully perform or satisfactorily complete any previous contract with the City;

3. "Local preference" means that in determining the low bid for commodities and equipment costing \$200,000 or less, the City may allow a qualified local business to match the lowest and best bid received from a non-local business, if the qualified local business' bid was within five percent (5%) of the lowest and best bid received from a non-local business.

4. "Bid" means the price and other required information, if any, quoted to the City by a local or non-local business in response to an invitation to bid, a request for proposal, a request for qualifications, or other means of solicitation used by the City to purchase commodities and equipment.

5. "Non-local business" means an individual or business entity that does not meet the definition of local business.

C. In all invitations to bid, requests for proposal, requests for quotation, and other solicitations for purchase of commodities and equipment, the City shall indicate if local preference, as outlined in this section, is applicable in the evaluation and award of bids received.

D. In bids where the local preference is applicable, forms shall be included in the bid documents for local businesses to certify their qualifications as a local business, and shall authorize the City's Tax Division to release necessary information to verify their qualifications.

E. When purchasing commodities and equipment costing \$200,000 or less, the City may provide a qualified local business with the opportunity to match the lowest and best bid received from a non-local or non-qualifying business. If the lowest and best bid received is from a non-local or non-qualifying business, the qualifying local business that has submitted a bid to the City that conforms to the bid specifications and is within five percent (5%) of the lowest bid submitted by the non-local or non-qualifying business will be given the opportunity to match the lowest and best bid. If that qualifying local business declines to match the lowest and best bid, then the award will be made to the bidder submitting the lowest and best bid.

F. Ties between a qualifying local business and one or more non-local or non-qualifying businesses shall be broken in favor of the qualifying local business. Ties between two or more qualifying local businesses shall be broken by selecting the first bid received. If two or more Bids were received at the same time, then the tie will be broken through a coin toss method administered by the City Manager or the City Manager's designee until the winner remains.

G. The provisions of this section shall not be construed to create any private rights, claims, or causes of action on behalf of any person or entity, including, but not limited to, bidders, proposers, and suppliers. Bids from local businesses must comply in all respects with the applicable specifications. Nothing in this section shall waive or nullify evaluation of delivery, quality, or any other requirements and specifications.

H. The provisions of this section shall not apply to any City contract which is funded in whole or in part with contributions, grants, or loans from any agency of the State of Ohio, the Counties of Montgomery or Greene, or the United States Government, nor shall a local preference apply where it would be otherwise unlawful to utilize a local preference. Further, the provisions of this section shall not apply to emergency procurements, sole source procurements, procurements made through cooperative purchasing programs, or procurements where proximity of the supplier is a determinative factor.

I. The City Manager or City Manager's designee may promulgate rules and regulations for the purpose of administering this section.

J. No person shall provide false information regarding local business or qualified local business status. Doing so shall result in the bidder being prohibited from bidding on another City contract for two years from the date of submission of the bid containing false information."

Section 2. Any portion of the Codified Ordinances requiring modification to reflect the changes expressed in this ordinance shall be so modified.

Section 3. If any portion of this Ordinance is found by a court of competent jurisdiction to be invalid or unlawful, City Council finds and declares that the remainder of this ordinance would be and is enforceable and would have been adopted notwithstanding the finding of invalidity or unlawfulness.

Section 4. Effective Date. This Ordinance shall take full force and effect from and after the earliest date allowed by law.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. LAVENDER,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO AN
AGREEMENT TO PARTICIPATE IN THE CONSTRUCTION OF
A REGIONAL FIBER OPTIC NETWORK**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, pursuant to Subsection "P" of Section 152.02 of Chapter 152 of the Codified Ordinances of the City of Kettering, to enter into an agreement with the Miami Valley Communications Council, City of Centerville, City of Miamisburg, City of Moraine, City of Oakwood, City of Springboro and the City of West Carrollton for the purpose of constructing and operating a regional broadband fiber network. The City Manager is further authorized to enter into any amendments to the agreement that the City Manager determines are in the best interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$273,000.00
Amount Budgeted: \$273,000.00
Acct. No.: 6621-72550

(Requested by: Administrative Systems Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO USE COMPETITIVE
BARGAINING AND NEGOTIATED QUOTES TO CONTRACT
FOR THE SOUTHERN BOULEVARD CROSSWALK
IMPROVEMENTS PROJECT, CITY PROJECT NO. 02-142K**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. On the basis that the City can often obtain lower prices and more favorable purchasing conditions through use of competitive bargaining and negotiated quotations than through sealed bids, the City Manager is hereby authorized to use such bargaining and negotiation procedures to contract for the Southern Boulevard Crosswalk Improvements Project, City Project No. 02-142K. The City Manager is further authorized to enter into any amendments to the contract(s) that the City Manager determines are in the best interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$60,000.00
Amount Budgeted: \$60,000.00
Acct. No.: 5101-77750

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

AUTHORIZING THE CITY MANAGER TO SUBMIT, ALONG WITH THE CITY OF DAYTON, A JOINT FUNDING APPLICATION TO THE CLEAN OHIO GREEN SPACE CONSERVATION PROGRAM FOR FUNDING TO ACQUIRE PROPERTY INTERESTS NEEDED FOR THE PROPOSED EAST DAYTON RAILS-TO-TRAILS "FLIGHT LINE" BIKEWAY PROJECT, CITY PROJECT NO. 05-004i

WHEREAS, the City of Kettering, along with the City of Dayton, has initiated the East Dayton Rails-to-Trails "Flight Line" Bikeway Project, City Project No. 05-004i ("Project"); and

WHEREAS, utilizing an unused railroad line, the Project would create a new bikeway connection from Delco Park in the City of Kettering to Downtown Dayton; and

WHEREAS, funding may be available from the Clean Ohio Green Space Conservation Program to help pay for the costs of acquiring the property interests necessary for completion of the Project;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized, on behalf of the City of Kettering, to submit, along with the City of Dayton, a joint funding application to the Clean Ohio Green Space Conservation Program to acquire the property interests needed for the Project. The City Manager is further authorized to enter into any agreements, including amendments thereto, with the City of Dayton needed to support the application.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. LAVENDER,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Engineering Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO A
FAÇADE AND SITE IMPROVEMENT GRANT AGREEMENT
FOR THE PROPERTY LOCATED AT 3022 WILMINGTON PIKE**

WHEREAS, in Resolution No. 9393-13, this City Council approved and authorized the City of Kettering Façade and Site Improvement Program ("Program") to provide financial assistance to property owners in order to improve and encourage reinvestment in the Wilmington Pike Corridor and thereby benefit the public health, safety, and welfare; and

WHEREAS, the owner of the property located at 3022 Wilmington Pike (the "Property") wants to make façade and site improvements to the Property (the "Project") but needs financial assistance in order to do so;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to enter into a Program grant agreement with the owner of 3022 Wilmington Pike to provide reimbursement of up to 50% of Project costs, not to exceed \$25,000. The City Manager is further authorized to enter into any amendments to the grant agreement that, in the City Manager's opinion, are beneficial to the interests of the City and further the Program.

Section 2. This resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI
Clerk of Council

THEODORE A. HAMER, III
Law Director

Estimated Cost: \$25,000.00

Amount Budgeted: \$0.00

Acct. No.: 0550-72550

(Requested by: Planning and Development Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO CONTRACT
FOR RENOVATION OF THE CITY MANAGER OFFICES**

Be It Resolved by the Council of the City of Kettering, State of Ohio:

Section 1. Pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, this Council hereby authorizes the City Manager to contract for renovation of the City Manager Offices. The City Manager is further authorized to enter into any amendments to said contract(s) that the City Manager determines to be in the best interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$33,000.00
Amount Available: \$33,000.00
Acct.: 6600-77720

(Requested by: Public Service Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO CONTRACT FOR
THE RENTAL OF MUSICAL AND PERFORMANCE RELATED
BACKLINE EQUIPMENT ON A "SHOW BY SHOW" AND "AS
NEEDED" BASIS FOR THE FRAZE PAVILION 2018 SEASON**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Pursuant to Subsection "I" of Section 152.02 of the Codified Ordinances of the City of Kettering, this Council hereby authorizes the City Manager to contract with one or more entities for the rental of musical and performance related instruments and equipment on a "show by show" and "as needed" basis for performances during the Frazee Pavilion 2018 performance season, with options to renew for two additional seasons. The City Manager is further authorized to enter into any amendments to the contract(s) that, in the City Manager's opinion, are beneficial to the interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III
Law Director

Estimated Cost: \$50,000.00
Amount Budgeted: \$50,000.00
Acct. No. 2200-72510

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ENTER INTO ONE
OR MORE AGREEMENTS FOR LIGHTING EQUIPMENT,
LIGHT TECHNICIAN, AND TECHNICAL DIRECTOR SERVICES
AT THE FRAZE PAVILION**

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Pursuant to Subsection "T" of Section 152.02 of the Codified Ordinances of the City of Kettering, this Council hereby authorizes the City Manager to enter into one or more agreements with Light Fantastic, Inc. for lighting, light technician, and technical director services for the Frazee Pavilion, including the rental of season lighting equipment and additional lighting equipment compatible with the season lighting equipment, as may be needed on a show by show basis, and with the option to renew the agreement(s) for two additional seasons. The City Manager is further authorized to enter into amendments to the agreement(s) that are, in the City Manager's opinion, beneficial to the interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$167,000.00
Amount Budgeted: \$167,000.00
Acct. No. 2200-72550 - \$ 47,000.00
2200-72510 - \$120,000.00

(Requested by: Parks, Recreation & Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

TO AUTHORIZE THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE RENTAL OF SOUND EQUIPMENT AND SOUND TECHNICIAN SERVICES FOR FRAZE PAVILION 2018 SEASON, AS WELL AS RENTAL OF SOUND EQUIPMENT AS REQUIRED BY PERFORMERS ON A PER SHOW BASIS

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. Pursuant to Subsection "T" of Section 152.02 of the Kettering Codified Ordinances, the City Manager is hereby authorized to enter into one or more contracts for the rental of sound equipment and sound technician services for the Frazee Pavilion 2018 season, as well as rental of sound equipment as required by performers on a per show basis, and with the option to renew the contract(s) for two additional seasons. The City Manager is further authorized to enter into amendments to said contract(s) that are, in the City Manager's opinion, beneficial to the interests of the City.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

Estimated Cost: \$170,000.00
Amount Budgeted: \$170,000.00
Acct. No.: 2200-72510 - \$160,000.00
2200-72550 - \$ 10,000.00

(Requested by: Parks, Recreation and Cultural Arts Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ACCEPT A
DONATION OF CARBON MONOXIDE DETECTORS FROM THE
DAYTON FIREFIGHTER'S CREDIT UNION**

WHEREAS, a donation of 50 carbon monoxide detectors has been offered to the City of Kettering from the Dayton Firefighter's Credit Union; and

WHEREAS, the Kettering Fire Department will distribute the detectors to City of Kettering residents who need detectors for their homes but may not be able to afford to purchase them;

NOW, THEREFORE, Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. The City Manager is hereby authorized to accept, on behalf of the City, a donation of 50 carbon monoxide detectors as described above and to distribute them to Kettering residents through a program administered by the Kettering Fire Department.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Fire Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

**AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS
FROM THE OHIO ATTORNEY GENERAL'S OFFICE TO
REIMBURSE THE CITY FOR 2017 CONTINUING
PROFESSIONAL TRAINING OF KETTERING POLICE
OFFICERS**

BE IT RESOLVED by the Council of the City of Kettering, Ohio that:

Section 1. The City Manager is hereby authorized, on behalf of the City, to accept funds in the amount of \$30,192.00 from the Ohio Attorney General's Office to reimburse the City for 2017 continuing professional training of Kettering police officers.

Section 2. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by: Police Department)

CITY OF KETTERING, OHIO

A RESOLUTION

By:

No.

TO MAKE SUPPLEMENTAL APPROPRIATIONS FOR
CURRENT EXPENSES AND OTHER EXPENDITURES OF
THE CITY OF KETTERING, STATE OF OHIO, DURING
THE FISCAL YEAR ENDING DECEMBER 31, 2018

Be It Resolved by the Council of the City of Kettering, State of Ohio, that:

Section 1. To provide for the current expenses and other expenditures of the City of Kettering during the fiscal year ending December 31, 2018, the following supplemental sums are set aside and appropriated:

A. From the General Fund:

ECONOMIC DEVELOPMENT	
Operating Expenses	\$ 25,000.00

B. From the Special Grants & Programs Fund:

LAW ENFORCEMENT	\$ 30,192.00
Other	\$ 162,025.00

Section 2. The Director of Finance is authorized to adjust appropriations within any fund or department as long as the adjustments made do not exceed the total appropriation authorized within that fund or department.

Section 3. The Clerk of Council is authorized and directed to forward a copy of this Resolution to the Montgomery County Auditor.

Section 4. This Resolution shall take full force and effect immediately upon its adoption.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III
Law Director

(Requested by: Finance Department)

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO REZONE 3980 WILMINGTON PIKE AND 3920 PARLIAMENT PLACE (PLANNING COMMISSION CASE NO. PC-17-033)

WHEREAS, on January 8, 2018, after publication and issuance of notice as required by the zoning regulations of this City, a public hearing was conducted by the City of Kettering Planning Commission concerning an application to rezone two parcels of land: (1) 3980 Wilmington Pike (the "Dayton Metro Library Parcel") to O-Office District; and (2) 3920 Parliament Place (the "Wynds Apartments Parcel") to R-4 Village Residence District, both as depicted on Exhibit 1, attached hereto and incorporated herein; and

WHEREAS, the Planning Commission subsequently recommended approval of the proposed zoning change; and

WHEREAS, on February 13, 2018, after publication and issuance of notice as required by the zoning regulations of this City, this City Council held a public hearing with evidence presented by the Planning and Development Department along with the recommendation of the Planning Commission to approve the application, and all parties were afforded the opportunity to be heard and present evidence in support of their positions;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. Having considered the report and recommendation of the Planning Commission and the criteria set forth in Sections 1153.12.9, Consistency, through 1153.12.15, Other Factors, of Chapter 1153 of the Zoning Code, the staff report and evidence presented at the public hearing, sound planning and zoning practices, the City's adopted plans, goals, and policies, the intent of the Kettering Zoning Code, and the public health, safety and welfare requirements underlying the Zoning Code, City Council finds that the application for rezoning should be approved.

Section 2. Based on the foregoing, the Dayton Metro Library Parcel is rezoned to O-Office District and the Wynds Apartments Parcel is rezoned to R-4 Village Residence District, both as shown on Exhibit 1.

Section 3. As appropriate and necessary, the official Zoning Map of the City of Kettering, Ohio is hereby revised and amended to reflect the zone change; and Section 1133.02 of the Kettering Codified Ordinances, which adopts the Zoning Map by reference, is hereby reenacted effective as of the first effective date of this Ordinance so as to include the map revision in the Zoning Code. The Director of the Planning and Development Department is directed to make such appropriate revisions on the official Zoning Map of the City.

Section 4. This ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

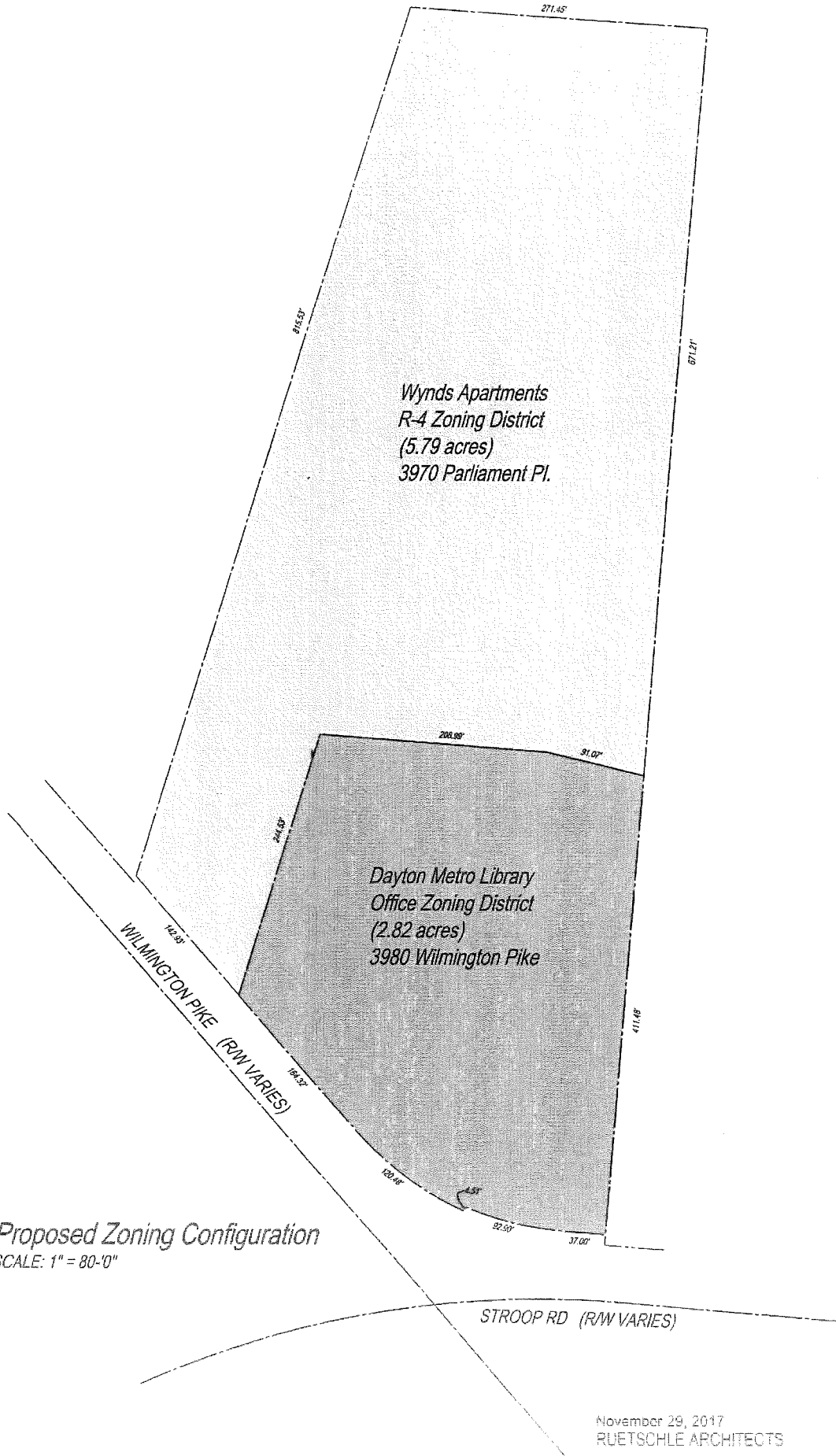
LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Planning and Development Department)

EXHIBIT 1

(2 total pages, including this page)



Proposed Zoning Configuration
 SCALE: 1" = 80'-0"

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

**TO LEVY SPECIAL ASSESSMENTS FOR THE REPLACEMENT
AND CONSTRUCTION OF CURBS, SIDEWALKS, DRIVE
APPROACHES, AND RELATED APPURTENANCES FOR THE
OAK CREEK IMPROVEMENTS-PHASE II PROJECT (PROJECT
NO. 02-289)**

WHEREAS, on January 10, 2017, this Council adopted Resolution No. 9901-17, a Resolution of Necessity, declaring the necessity to repair or replace curbs, sidewalks, driveway approaches and related appurtenances, as part of the Oak Creek Improvements-Phase II Project (Project No. 02-289); and

WHEREAS, notice of the passage of that Resolution of Necessity was given as required by law; and

WHEREAS, the City of Kettering subsequently constructed and/or repaired those curbs, sidewalks, driveway approaches, and related appurtenances which were not constructed or repaired by the owners of the abutting property; and

WHEREAS, the total cost of the construction has been reported to this Council; and a list of estimated assessments of that total cost has been prepared and placed on file in the office of the Clerk of this Council so as to be available for public inspection, and a copy of said list is attached hereto as Exhibit "A" and made a part of this Ordinance; and

WHEREAS, notice that the list of estimated assessments was available for inspection and examination was published as required by law in a newspaper of general circulation; and

WHEREAS, no objections to any assessment have been filed; and

WHEREAS, this Council has now reviewed the estimated assessments;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. The list of estimated assessments referred to in the above recital paragraphs is hereby approved.

Section 2. The amounts of assessment on the list are hereby and shall be levied upon the lots and lands which about the improvements, as set forth on the list.

Section 3. No assessment approved or levied by this Ordinance exceeds the special benefits resulting from the improvement and does not exceed any statutory limitation.

Section 4. The Clerk of Council is authorized and directed to continue to keep on file in her office until all the assessments have been paid in full a list of the assessments and the description of the lots and lands so assessed.

Section 5. The total assessment against each lot and parcel of land shall be payable in cash to the Finance Director of the City of Kettering by August 24, 2018, or, at the option of the property owner, shall be payable in not more than ten (10) annual installments over a period not exceeding ten (10) years, with the exact number of annual installments subject to the amount of the assessment, in accordance with the schedule set forth below:

<u>ASSESSMENT AMOUNT</u>	<u>ANNUAL INSTALLMENTS</u>	<u>INTEREST RATE</u>
\$0-250	1	1.54%
\$251-500	2	1.79%
\$501-750	3	1.99%
\$751-1000	4	2.18%
\$1001-1250	5	2.40%
\$1251-1500	6	2.52%
\$1501-1750	7	2.64%
\$1751-2000	8	2.75%
\$2001-2250	9	2.87%
\$2251 & OVER	10	2.98%

Assessments paid in annual installments shall include all costs of the County Auditor and shall also include interest at the rates set forth in the above table.

All assessments and assessment installments that have not been paid at the expiration of the payment period allowed by this Ordinance shall within fourteen (14) working days following such date of expiration be certified by the Clerk of this Council to the County Auditor as provided by law. These assessments and installments are then to be placed on the tax duplicate and collected at the same time and in the same manner as real estate taxes are collected.

Section 6. The Clerk of Council is authorized and directed to cause notice of the passage of this Ordinance to be published once in a newspaper of general circulation in the City; the notice shall state that the assessments have been made and are on file in the office of the Clerk of Council for inspection and examination by interested persons.

Section 7. The Clerk of Council is authorized and directed to cause notice of the levy of the assessments to be filed with the County Auditor within twenty (20) days following the passage of this Ordinance.

Section 8. It is 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; 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, to the extent required by or under the Charter of this City.

Section 9. This Ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2018.

DONALD E. PATTERSON, Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by Engineering Department)

EXHIBIT A

(4 total pages, including this page)

**FINAL ASSESSMENT COSTS for
Oakcreek Phase 2 : NE of Bigger & Whipp**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
2313	ACME CT	N64 02912 0008	\$408.60	\$900.00	\$511.28	\$1,336.30	\$0.00	\$0.00	\$3,156.18
2325	ACME CT	N64 02912 0009	\$652.63	\$1,437.50	\$132.00	\$345.00	\$0.00	\$0.00	\$2,567.13
2336	ACME CT	N64 02912 0020	\$703.70	\$1,550.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,253.70
2337	ACME CT	N64 02912 0010	\$301.91	\$665.00	\$244.64	\$639.40	\$0.00	\$0.00	\$1,850.95
2349	ACME CT	N64 02912 0011	\$107.83	\$237.50	\$269.28	\$703.80	\$0.00	\$0.00	\$1,318.41
2361	ACME CT	N64 02912 0012	\$164.58	\$362.50	\$118.80	\$310.50	\$0.00	\$0.00	\$956.38
2373	ACME CT	N64 02912 0013	\$0.00	\$0.00	\$44.00	\$115.00	\$0.00	\$0.00	\$159.00
2231	BERRYCREEK DR	N64 03016 0014	\$79.45	\$175.00	\$0.00	\$0.00	\$0.00	\$0.00	\$264.45
2235	BERRYCREEK DR	N64 03016 0015	\$227.00	\$500.00	\$0.00	\$0.00	\$0.00	\$0.00	\$727.00
2236	BERRYCREEK DR	N64 03016 0019	\$136.20	\$300.00	\$184.80	\$483.00	\$0.00	\$0.00	\$1,104.00
2240	BERRYCREEK DR	N64 03016 0018	\$278.08	\$612.50	\$337.92	\$319.70	\$421.20	\$0.00	\$2,121.50
2243	BERRYCREEK DR	N64 03016 0016	\$73.77	\$162.50	\$0.00	\$0.00	\$0.00	\$0.00	\$236.27
2244	BERRYCREEK DR	N64 03016 0017	\$295.10	\$650.00	\$575.30	\$105.30	\$839.47	\$0.00	\$3,040.17
2247	BERRYCREEK DR	N64 03017 0001	\$238.35	\$525.00	\$0.00	\$0.00	\$0.00	\$0.00	\$763.35
2248	BERRYCREEK DR	N64 03017 0019	\$90.80	\$200.00	\$79.20	\$207.00	\$0.00	\$0.00	\$577.00
2251	BERRYCREEK DR	N64 03017 0002	\$170.25	\$375.00	\$0.00	\$0.00	\$0.00	\$0.00	\$545.25
2252	BERRYCREEK DR	N64 03017 0018	\$232.67	\$512.50	\$44.00	\$115.00	\$0.00	\$0.00	\$904.17
2255	BERRYCREEK DR	N64 03017 0003	\$158.90	\$350.00	\$0.00	\$0.00	\$0.00	\$0.00	\$508.90
2256	BERRYCREEK DR	N64 03017 0017	\$329.15	\$725.00	\$132.00	\$345.00	\$0.00	\$0.00	\$1,531.15
2260	BERRYCREEK DR	N64 03017 0016	\$289.43	\$637.50	\$193.60	\$506.00	\$0.00	\$0.00	\$1,626.53
2263	BERRYCREEK DR	N64 03017 0005	\$85.13	\$187.50	\$0.00	\$0.00	\$0.00	\$0.00	\$272.63
2264	BERRYCREEK DR	N64 03017 0015	\$79.45	\$175.00	\$167.20	\$437.00	\$0.00	\$0.00	\$858.65
2267	BERRYCREEK DR	N64 03017 0006	\$79.45	\$175.00	\$0.00	\$0.00	\$0.00	\$0.00	\$254.45
2268	BERRYCREEK DR	N64 03017 0014	\$266.72	\$587.50	\$0.00	\$0.00	\$0.00	\$0.00	\$854.22
2271	BERRYCREEK DR	N64 03017 0007	\$272.40	\$600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$872.40
2272	BERRYCREEK DR	N64 03017 0013	\$34.05	\$75.00	\$66.00	\$0.00	\$0.00	\$0.00	\$350.55
2275	BERRYCREEK DR	N64 03017 0008	\$73.77	\$162.50	\$0.00	\$175.50	\$0.00	\$0.00	\$236.27
2276	BERRYCREEK DR	N64 03017 0012	\$276.94	\$610.00	\$154.00	\$0.00	\$409.50	\$0.00	\$1,450.44
2279	BERRYCREEK DR	N64 03017 0009	\$295.10	\$650.00	\$0.00	\$0.00	\$0.00	\$0.00	\$945.10
2280	BERRYCREEK DR	N64 03017 0011	\$312.13	\$687.50	\$44.00	\$115.00	\$0.00	\$0.00	\$1,158.63
2284	BERRYCREEK DR	N64 03017 0010	\$96.48	\$212.50	\$96.80	\$253.00	\$0.00	\$0.00	\$656.78
2288	BERRYCREEK DR	N64 02715 0001	\$0.00	\$0.00	\$149.60	\$391.00	\$0.00	\$0.00	\$540.60
5300	BLISS PL	N64 02912 0014	\$181.60	\$400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$581.60
5301	BLISS PL	N64 02912 0019	\$383.63	\$845.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,228.63
5312	BLISS PL	N64 02912 0015	\$278.08	\$612.50	\$0.00	\$0.00	\$0.00	\$0.00	\$890.58
5313	BLISS PL	N64 02912 0018	\$331.42	\$730.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,061.42
5324	BLISS PL	N64 02912 0016	\$227.00	\$500.00	\$238.26	\$0.00	\$633.56	\$0.00	\$1,598.82
5325	BLISS PL	N64 02912 0017	\$261.05	\$575.00	\$0.00	\$0.00	\$0.00	\$0.00	\$836.05
2325	COLONY WAY	N64 02911 0010	\$175.92	\$387.50	\$0.00	\$0.00	\$0.00	\$0.00	\$563.42
2336	COLONY WAY	N64 02910 0010	\$272.40	\$600.00	\$140.80	\$0.00	\$0.00	\$0.00	\$1,387.60
2337	COLONY WAY	N64 02911 0011	\$170.25	\$375.00	\$0.00	\$0.00	\$0.00	\$0.00	\$545.25
2348	COLONY WAY	N64 02910 0009	\$255.38	\$562.50	\$0.00	\$0.00	\$0.00	\$0.00	\$817.88
2349	COLONY WAY	N64 02911 0012	\$266.72	\$587.50	\$0.00	\$0.00	\$0.00	\$0.00	\$854.22
2360	COLONY WAY	N64 02910 0008	\$251.97	\$555.00	\$0.00	\$0.00	\$0.00	\$0.00	\$806.97
2361	COLONY WAY	N64 02911 0013	\$215.65	\$475.00	\$0.00	\$0.00	\$0.00	\$0.00	\$690.65

**FINAL ASSESSMENT COSTS for
Oakcreek Phase 2 : NE of Bigger & Whipp**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
2372 COLONY WAY	N64 02911 0014	\$158.90	\$350.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$508.90
2356 IVYTON CT	N64 02715 0030	\$749.10	\$1,650.00	\$414.92	\$322.00	\$0.00	\$775.71	\$0.00	\$3,911.73
2368 IVYTON CT	N64 02715 0029	\$39.73	\$87.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$127.23
5359 MILLCREEK RD	N64 02715 0002	\$34.05	\$75.00	\$228.80	\$598.00	\$0.00	\$0.00	\$0.00	\$935.85
5424 MILLCREEK RD	N64 02716 0013	\$300.78	\$662.50	\$140.80	\$368.00	\$0.00	\$0.00	\$0.00	\$1,472.08
5200 OAKBROOKE DR	N64 02910 0013	\$39.73	\$87.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$127.23
5211 OAKBROOKE DR	N64 02910 0020	\$408.60	\$900.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,308.60
5212 OAKBROOKE DR	N64 02910 0014	\$0.00	\$0.00	\$495.22	\$209.30	\$362.70	\$741.19	\$0.00	\$1,808.41
5223 OAKBROOKE DR	N64 02912 0022	\$375.69	\$827.50	\$291.06	\$0.00	\$0.00	\$773.96	\$0.00	\$2,268.21
5224 OAKBROOKE DR	N64 02910 0015	\$482.38	\$1,062.50	\$647.90	\$655.50	\$175.50	\$880.43	\$0.00	\$3,904.21
5235 OAKBROOKE DR	N64 02912 0023	\$321.21	\$707.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,028.71
5247 OAKBROOKE DR	N64 02912 0024	\$397.25	\$875.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,272.25
5261 OAKBROOKE DR	N64 02912 0025	\$102.15	\$225.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$327.15
5273 OAKBROOKE DR	N64 02912 0026	\$363.20	\$800.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,163.20
5274 OAKBROOKE DR	N64 02912 0007	\$329.15	\$725.00	\$500.50	\$632.50	\$257.40	\$429.97	\$0.00	\$2,874.52
5285 OAKBROOKE DR	N64 02912 0027	\$417.68	\$920.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,337.68
5297 OAKBROOKE DR	N64 02912 0028	\$368.88	\$812.50	\$74.80	\$0.00	\$198.90	\$0.00	\$0.00	\$1,465.08
5300 OAKBROOKE DR	N64 02912 0021	\$332.56	\$732.50	\$389.84	\$230.00	\$0.00	\$802.62	\$0.00	\$2,487.52
5301 OAKBROOKE DR	N64 02912 0029	\$232.67	\$512.50	\$274.85	\$0.00	\$0.00	\$730.84	\$0.00	\$1,750.86
5312 OAKBROOKE DR	N64 02715 0024	\$346.18	\$762.50	\$352.00	\$115.00	\$0.00	\$819.00	\$0.00	\$2,394.68
5315 OAKBROOKE DR	N64 02715 0023	\$342.77	\$755.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,097.77
5324 OAKBROOKE DR	N64 02715 0025	\$482.38	\$1,062.50	\$426.80	\$115.00	\$198.90	\$819.00	\$0.00	\$3,104.58
5325 OAKBROOKE DR	N64 02715 0022	\$1,135.00	\$2,500.00	\$409.46	\$0.00	\$376.74	\$712.06	\$0.00	\$5,133.26
5336 OAKBROOKE DR	N64 02715 0026	\$181.60	\$400.00	\$136.40	\$356.50	\$0.00	\$0.00	\$0.00	\$1,074.50
5337 OAKBROOKE DR	N64 02715 0021	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
5348 OAKBROOKE DR	N64 02715 0027	\$640.14	\$1,410.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,050.14
5349 OAKBROOKE DR	N64 02715 0020	\$862.60	\$1,900.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$2,762.60
5361 OAKBROOKE DR	N64 02715 0019	\$180.47	\$397.50	\$154.00	\$0.00	\$0.00	\$409.50	\$0.00	\$1,141.47
5373 OAKBROOKE DR	N64 02715 0018	\$351.85	\$775.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,126.85
5385 OAKBROOKE DR	N64 02715 0017	\$266.72	\$587.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$854.22
5386 OAKBROOKE DR	N64 02715 0031	\$0.00	\$0.00	\$193.60	\$506.00	\$0.00	\$0.00	\$0.00	\$699.60
5410 OAKBROOKE DR	N64 02716 0011	\$289.43	\$637.50	\$220.00	\$333.50	\$0.00	\$245.70	\$0.00	\$1,726.13
5422 OAKBROOKE DR	N64 02716 0012	\$431.30	\$950.00	\$358.16	\$131.10	\$0.00	\$819.00	\$0.00	\$2,689.56
5435 OAKBROOKE DR	N64 02716 0009	\$278.08	\$612.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$890.58
5350 OAKVISTA PL	N64 03016 0012	\$295.10	\$650.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$945.10
5362 OAKVISTA PL	N64 03016 0013	\$215.65	\$475.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$690.65
5363 OAKVISTA PL	N64 03016 0011	\$119.18	\$262.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$381.68
5375 OAKVISTA PL	N64 03016 0010	\$90.80	\$200.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$290.80
5387 OAKVISTA PL	N64 03016 0009	\$209.98	\$462.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$672.48
5400 OAKVISTA PL	N64 03016 0020	\$204.30	\$450.00	\$484.00	\$1,265.00	\$0.00	\$0.00	\$0.00	\$2,403.30
5401 OAKVISTA PL	N64 03016 0008	\$215.65	\$475.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$690.65
5413 OAKVISTA PL	N64 03016 0007	\$85.13	\$187.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$272.63
2466 E RAHN RD	N64 02907 0007	\$306.45	\$675.00	\$1,320.00	\$3,450.00	\$0.00	\$0.00	\$0.00	\$5,751.45
2482 E RAHN RD	N64 02907 0006	\$341.64	\$752.50	\$932.69	\$1,322.50	\$0.00	\$1,134.61	\$0.00	\$4,483.94
2465 SPRINGMILL RD	N64 02911 0006	\$51.07	\$112.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$163.57

**FINAL ASSESSMENT COSTS for
Oakcreek Phase 2 : NE of Bigger & Whipp**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
2466	SPRINGMILL RD								\$745.17
2301	N64 02910 0016	\$232.67	\$512.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$745.17
2312	SUGAR MAPLE DR	\$232.67	\$512.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$745.17
2310	SUGAR MAPLE DR	\$334.83	\$737.50	\$616.00	\$690.00	\$117.00	\$819.00	\$0.00	\$3,314.33
2324	SUGAR MAPLE DR	\$283.75	\$625.00	\$233.20	\$322.00	\$292.50	\$0.00	\$0.00	\$1,756.45
2325	SUGAR MAPLE DR	\$56.75	\$125.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$181.75
2336	SUGAR MAPLE DR	\$505.08	\$1,112.50	\$105.60	\$276.00	\$0.00	\$0.00	\$0.00	\$1,999.18
2337	SUGAR MAPLE DR	\$272.40	\$600.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$872.40
2348	SUGAR MAPLE DR	\$794.50	\$1,750.00	\$744.81	\$699.20	\$431.73	\$837.43	\$0.00	\$5,257.67
2349	SUGAR MAPLE DR	\$365.90	\$850.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,235.90
2360	SUGAR MAPLE DR	\$39.73	\$87.50	\$88.00	\$230.00	\$0.00	\$0.00	\$0.00	\$445.23
2361	SUGAR MAPLE DR	\$1,146.35	\$2,525.00	\$448.80	\$0.00	\$374.40	\$619.00	\$0.00	\$5,313.55
5112	SUGAR MAPLE DR	\$130.53	\$287.50	\$131.12	\$342.70	\$0.00	\$0.00	\$0.00	\$891.85
5124	SUGAR MAPLE DR	\$96.48	\$212.50	\$228.80	\$598.00	\$0.00	\$0.00	\$0.00	\$1,135.78
5136	SUGAR MAPLE DR	\$368.88	\$812.50	\$627.44	\$517.50	\$372.06	\$769.86	\$0.00	\$3,468.24
5148	SUGAR MAPLE DR	\$198.63	\$437.50	\$180.40	\$471.50	\$0.00	\$0.00	\$0.00	\$1,288.03
5149	SUGAR MAPLE DR	\$124.85	\$275.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$399.85
5160	SUGAR MAPLE DR	\$175.92	\$387.50	\$228.80	\$598.00	\$0.00	\$0.00	\$0.00	\$1,390.22
5161	SUGAR MAPLE DR	\$181.60	\$400.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$581.60
5172	SUGAR MAPLE DR	\$255.38	\$562.50	\$44.00	\$115.00	\$0.00	\$0.00	\$0.00	\$976.88
5173	SUGAR MAPLE DR	\$533.45	\$1,175.00	\$440.88	\$0.00	\$376.74	\$795.60	\$0.00	\$3,321.67
5184	SUGAR MAPLE DR	\$516.43	\$1,137.50	\$337.92	\$883.20	\$0.00	\$0.00	\$0.00	\$2,875.05
5185	SUGAR MAPLE DR	\$124.85	\$275.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$399.85
5196	SUGAR MAPLE DR	\$0.00	\$0.00	\$484.00	\$1,092.50	\$175.50	\$0.00	\$0.00	\$1,752.00
5200	SUGAR MAPLE DR	\$124.85	\$275.00	\$330.00	\$483.00	\$386.10	\$0.00	\$0.00	\$1,598.95
5212	SUGAR MAPLE DR	\$346.18	\$762.50	\$366.08	\$830.30	\$128.70	\$0.00	\$0.00	\$2,433.76
5213	SUGAR MAPLE DR	\$113.50	\$250.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$363.50
5224	SUGAR MAPLE DR	\$68.10	\$150.00	\$65.36	\$223.10	\$0.00	\$0.00	\$0.00	\$526.56
5236	SUGAR MAPLE DR	\$263.32	\$580.00	\$282.48	\$450.80	\$292.50	\$0.00	\$0.00	\$1,869.10
2223	WHIPP RD	\$170.25	\$375.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$545.25
2231	E WHIPP RD	\$340.50	\$750.00	\$44.00	\$115.00	\$0.00	\$0.00	\$0.00	\$1,249.50
120		\$31,876.60	\$70,212.50	\$18,416.97	\$26,744.40	\$5,324.67	\$16,438.21	\$0.00	\$169,013.35

CITY OF KETTERING, OHIO

AN ORDINANCE

By:

No.

TO LEVY SPECIAL ASSESSMENTS FOR THE CONSTRUCTION AND REPAIR OF CURBS, SIDEWALKS, DRIVEWAY APPROACHES, AND RELATED APPURTENANCES, FOR THE 2017 CURB, SIDEWALK & DRIVE APPROACH REPAIR PROGRAM (PROJECT NUMBER 05-117)

WHEREAS, on January 10, 2017 this Council adopted Resolution 9899-17, a Resolution of Necessity, declaring the necessity of constructing or repairing curbs, sidewalks, driveway approaches, and related appurtenances on certain streets abutting lots and lands within the City of Kettering; and

WHEREAS, on February 28, 2017 this Council adopted Resolution 9932-17, a Resolution of Necessity, declaring the necessity of constructing or repairing curbs, sidewalks, driveway approaches, and related appurtenances on certain other streets abutting lots and lands within the City of Kettering; and

WHEREAS, notice of the passage of those Resolutions of Necessity was given as required by law; and

WHEREAS, the City of Kettering has subsequently constructed and/or repaired those sidewalks, curbs and driveway approaches which were not constructed or repaired by the owners of the abutting property; and

WHEREAS, the total cost of the construction and repairs has been reported to this Council; and a list of estimated assessments of that total cost has been prepared and placed on file in the office of the Clerk of this Council so as to be available for public inspection, and a copy of said list is attached hereto as Exhibit "A" and made a part of this Ordinance; and

WHEREAS, notice that the list of estimated assessments was available for inspection and examination was published as required by law in a newspaper of general circulation; and

WHEREAS, no objections to any assessment have been filed; and

WHEREAS, this Council has now reviewed the estimated assessments;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, Ohio, that:

Section 1. The list of estimated assessments referred to in the above recital paragraphs is hereby approved.

Section 2. The amounts of assessment on the list are hereby and shall be levied upon the lots and lands which abut the improvements, as set forth on the list.

Section 3. No assessment approved or levied by this Ordinance exceeds the special benefits resulting from the improvement and does not exceed any statutory limitation.

Section 4. The Clerk of Council is authorized and directed to continue to keep on file until all the assessments have been paid in full a list of the assessments and the description of the lots and lands so assessed.

Section 5. The total assessment against each lot and parcel of land shall be payable in cash to the Finance Director of the City of Kettering by August 24, 2018, or, at the option of the

property owner, shall be payable in not more than ten (10) annual installments over a period not exceeding ten (10) years, with the exact number of annual installments subject to the amount of the assessment, in accordance with the schedule set forth below:

<u>ASSESSMENT AMOUNT</u>	<u>ANNUAL INSTALLMENTS</u>	<u>INTEREST RATE</u>
\$0-250	1	1.54%
\$251-500	2	1.79%
\$501-750	3	1.99%
\$751-1000	4	2.18%
\$1001-1250	5	2.40%
\$1251-1500	6	2.52%
\$1501-1750	7	2.64%
\$1751-2000	8	2.75%
\$2001-2250	9	2.87%
\$2251 & OVER	10	2.98%

Assessments paid in annual installments shall include all costs of the County Auditor and shall also include interest at the rates set forth in the above table.

All assessments and assessment installments that have not been paid at the expiration of the payment period allowed by this Ordinance shall within fourteen (14) working days following such date of expiration be certified by the Clerk of this Council to the County Auditor as provided by law. These assessments and installments are then to be placed on the tax duplicate and collected at the same time and in the same manner as real estate taxes are collected.

Section 6. The Clerk of Council is authorized and directed to cause notice of the passage of this Ordinance to be published once in a newspaper of general circulation in the City; the notice shall state that the assessments have been made and are on file in the office of the Clerk of Council for inspection and examination by interested persons.

Section 7. The Clerk of Council is authorized and directed to cause notice of the levy of the assessments to be filed with the County Auditor within twenty (20) days following the passage of this Ordinance.

Section 8. It is 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; 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, to the extent required by or under the Charter of this City.

Section 9. This Ordinance shall take full force and effect from and after the earliest period provided by law.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR, Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER, III,
Law Director

(Requested by Engineering Department)

EXHIBIT A

(5 total pages, including this page)

**FINAL ASSESSMENT COSTS for
2017 Curb, Sidewalk & Drive Approach Repair Project**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
2300	ALVARADO DR	N64 00410 0014	\$356.40	\$1,044.90	\$577.50	\$280.80	\$475.00	\$823.20	\$3,557.80
2309	ALVARADO DR	N64 00410 0037	\$396.00	\$1,161.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,557.00
2317	ALVARADO DR	N64 00410 0038	\$343.20	\$1,006.20	\$639.87	\$345.60	\$944.72	\$0.00	\$3,729.59
2324	ALVARADO DR	N64 00410 0035	\$814.00	\$2,388.50	\$560.70	\$259.20	\$450.00	\$0.00	\$5,293.60
2325	ALVARADO DR	N64 00410 0039	\$0.00	\$0.00	\$63.00	\$162.00	\$0.00	\$0.00	\$225.00
2333	ALVARADO DR	N64 00410 0040	\$360.80	\$1,057.80	\$396.48	\$172.80	\$262.50	\$0.00	\$2,893.26
2340	ALVARADO DR	N64 00410 0034	\$356.40	\$1,044.90	\$462.00	\$356.40	\$0.00	\$862.40	\$3,082.10
2341	ALVARADO DR	N64 00410 0041	\$220.00	\$645.00	\$382.31	\$108.00	\$0.00	\$907.48	\$2,262.79
2349	ALVARADO DR	N64 00411 0013	\$26.40	\$77.40	\$33.60	\$86.40	\$0.00	\$0.00	\$223.80
2356	ALVARADO DR	N64 00410 0033	\$431.20	\$1,264.20	\$604.80	\$313.20	\$475.00	\$862.40	\$3,950.80
2357	ALVARADO DR	N64 00411 0014	\$0.00	\$0.00	\$126.00	\$216.00	\$125.00	\$0.00	\$467.00
2363	ALVARADO DR	N64 00411 0015	\$271.04	\$794.64	\$728.07	\$432.00	\$525.00	\$1,023.12	\$3,773.87
2400	ALVARADO DR	N64 00411 0008	\$686.40	\$2,012.40	\$737.31	\$1,252.80	\$50.00	\$622.16	\$5,361.07
2401	ALVARADO DR	N64 00411 0016	\$180.40	\$528.90	\$79.80	\$205.20	\$0.00	\$0.00	\$994.30
2416	ALVARADO DR	N64 02404 0008	\$246.40	\$722.40	\$512.40	\$561.60	\$0.00	\$784.00	\$2,826.80
2417	ALVARADO DR	N64 02404 0001	\$228.80	\$670.80	\$117.60	\$302.40	\$0.00	\$0.00	\$1,319.60
2424	ALVARADO DR	N64 02404 0009	\$316.80	\$928.80	\$468.30	\$410.40	\$0.00	\$823.20	\$2,947.50
2425	ALVARADO DR	N64 02404 0002	\$453.20	\$1,328.70	\$562.80	\$205.20	\$437.50	\$896.00	\$3,883.40
2432	ALVARADO DR	N64 02404 0010	\$331.76	\$972.66	\$332.01	\$0.00	\$0.00	\$885.36	\$2,521.79
2433	ALVARADO DR	N64 02404 0003	\$369.60	\$1,083.60	\$509.42	\$216.00	\$407.50	\$769.33	\$3,355.45
2440	ALVARADO DR	N64 02404 0011	\$462.00	\$1,354.50	\$430.12	\$367.20	\$250.00	\$542.19	\$3,406.01
2500	ALVARADO DR	N64 02404 0012	\$246.40	\$722.40	\$294.21	\$0.00	\$250.00	\$560.56	\$2,073.57
2501	ALVARADO DR	N64 02404 0004	\$756.80	\$2,218.80	\$652.85	\$540.00	\$400.00	\$822.53	\$5,390.98
2516	ALVARADO DR	N64 02404 0013	\$206.80	\$606.30	\$563.85	\$345.60	\$425.00	\$764.40	\$2,911.95
2525	ALVARADO DR	N64 02404 0005	\$255.20	\$748.20	\$606.02	\$561.60	\$352.50	\$717.81	\$3,241.33
2526	ALVARADO DR	N64 02404 0014	\$290.40	\$851.40	\$634.41	\$583.20	\$337.50	\$784.56	\$3,481.47
2601	BAYLOR CT	N64 02405 0011	\$0.00	\$0.00	\$281.40	\$723.60	\$0.00	\$0.00	\$1,005.00
2616	BAYLOR CT	N64 02404 0022	\$176.00	\$516.00	\$235.20	\$604.80	\$0.00	\$0.00	\$1,532.00
2617	BAYLOR CT	N64 02405 0009	\$220.00	\$645.00	\$364.56	\$103.68	\$352.50	\$548.80	\$2,234.54
3401	BRADDOCK ST	N64 02015 0013	\$563.20	\$1,651.20	\$915.60	\$1,274.40	\$150.00	\$985.60	\$5,540.00
3404	BRADDOCK ST	N64 02015 0031	\$259.60	\$761.10	\$105.00	\$270.00	\$0.00	\$0.00	\$1,395.70
3408	BRADDOCK ST	N64 02015 0030	\$352.00	\$1,032.00	\$151.20	\$388.80	\$0.00	\$0.00	\$1,924.00
3409	BRADDOCK ST	N64 02015 0015	\$413.60	\$1,212.60	\$63.00	\$162.00	\$0.00	\$0.00	\$1,851.20
3412	BRADDOCK ST	N64 02015 0029	\$514.80	\$1,509.30	\$445.20	\$324.00	\$250.00	\$627.20	\$3,670.50
3413	BRADDOCK ST	N64 02015 0016	\$400.40	\$1,173.90	\$0.00	\$0.00	\$0.00	\$0.00	\$1,574.30
3416	BRADDOCK ST	N64 02015 0028	\$440.00	\$1,290.00	\$541.23	\$615.60	\$225.00	\$603.29	\$3,715.12
3417	BRADDOCK ST	N64 02015 0017	\$193.60	\$567.60	\$176.40	\$453.60	\$0.00	\$0.00	\$1,391.20
3500	BRADDOCK ST	N64 02015 0027	\$686.40	\$2,012.40	\$436.80	\$324.00	\$100.00	\$739.20	\$4,298.80
3501	BRADDOCK ST	N64 02015 0018	\$189.20	\$554.70	\$385.56	\$788.40	\$235.00	\$0.00	\$2,152.86
3504	BRADDOCK ST	N64 02015 0026	\$492.80	\$1,444.80	\$315.84	\$239.76	\$0.00	\$593.60	\$3,086.80
3505	BRADDOCK ST	N64 02015 0019	\$0.00	\$0.00	\$71.40	\$183.60	\$0.00	\$0.00	\$255.00
3508	BRADDOCK ST	N64 02015 0025	\$400.40	\$1,173.90	\$0.00	\$0.00	\$0.00	\$0.00	\$1,574.30
3509	BRADDOCK ST	N64 02015 0020	\$462.00	\$1,354.50	\$585.90	\$669.60	\$257.50	\$637.28	\$3,966.78
3512	BRADDOCK ST	N64 02015 0024	\$404.80	\$1,186.80	\$267.96	\$0.00	\$0.00	\$714.56	\$2,574.12
3513	BRADDOCK ST	N64 02015 0021	\$602.80	\$1,767.30	\$539.74	\$561.60	\$350.00	\$543.31	\$4,364.75

**FINAL ASSESSMENT COSTS for
2017 Curb, Sidewalk & Drive Approach Repair Project**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
3516	BRADDOCK ST	N64 02015 0023	\$228.80	\$670.80	\$698.04	\$1,168.56	\$0.00	\$649.60	\$3,415.80
3517	BRADDOCK ST	N64 02015 0022	\$0.00	\$0.00	\$151.20	\$388.80	\$0.00	\$0.00	\$540.00
3520	BRADDOCK ST	N64 02016 0031	\$0.00	\$0.00	\$67.20	\$172.80	\$0.00	\$0.00	\$240.00
3521	BRADDOCK ST	N64 02016 0001	\$0.00	\$0.00	\$58.80	\$151.20	\$0.00	\$0.00	\$210.00
3524	BRADDOCK ST	N64 02016 0030	\$528.00	\$1,548.00	\$517.46	\$360.72	\$300.00	\$737.02	\$3,991.20
3525	BRADDOCK ST	N64 02016 0002	\$0.00	\$0.00	\$222.60	\$572.40	\$0.00	\$0.00	\$795.00
3600	BRADDOCK ST	N64 02016 0029	\$281.60	\$825.60	\$33.60	\$86.40	\$0.00	\$0.00	\$1,227.20
3601	BRADDOCK ST	N64 02016 0003	\$237.60	\$696.60	\$100.80	\$259.20	\$0.00	\$0.00	\$1,294.20
3604	BRADDOCK ST	N64 02016 0028	\$585.20	\$1,715.70	\$320.88	\$270.00	\$0.00	\$575.68	\$3,467.46
3605	BRADDOCK ST	N64 02016 0004	\$0.00	\$0.00	\$180.60	\$356.40	\$0.00	\$0.00	\$662.00
3608	BRADDOCK ST	N64 02016 0027	\$418.00	\$1,225.50	\$142.80	\$367.20	\$0.00	\$0.00	\$2,153.50
3609	BRADDOCK ST	N64 02016 0005	\$968.00	\$2,838.00	\$571.20	\$529.20	\$694.40	\$0.00	\$5,913.30
3612	BRADDOCK ST	N64 02016 0026	\$545.60	\$1,599.60	\$483.00	\$194.40	\$784.00	\$0.00	\$3,944.10
3700	BRADDOCK ST	N64 02016 0025	\$589.60	\$1,728.60	\$254.94	\$88.56	\$588.00	\$0.00	\$3,249.70
3701	BRADDOCK ST	N64 02016 0022	\$636.00	\$2,451.00	\$320.88	\$825.12	\$0.00	\$0.00	\$4,433.00
3704	BRADDOCK ST	N64 02016 0024	\$488.40	\$1,431.90	\$366.66	\$151.20	\$588.00	\$0.00	\$3,286.16
3708	BRADDOCK ST	N64 02016 0023	\$488.40	\$1,431.90	\$395.64	\$356.40	\$497.28	\$0.00	\$3,379.62
3709	BRADDOCK ST	N64 02405 0008	\$150.48	\$441.18	\$412.94	\$302.40	\$563.58	\$0.00	\$2,120.58
3717	BRADDOCK ST	N64 02405 0007	\$0.00	\$0.00	\$172.20	\$442.80	\$0.00	\$0.00	\$615.00
3724	BRADDOCK ST	N64 02405 0015	\$57.20	\$167.70	\$33.60	\$86.40	\$0.00	\$0.00	\$344.90
3741	BRADDOCK ST	N64 02405 0004	\$0.00	\$0.00	\$113.40	\$291.60	\$0.00	\$0.00	\$405.00
3748	BRADDOCK ST	N64 02405 0014	\$259.60	\$761.10	\$599.34	\$788.40	\$780.64	\$0.00	\$3,189.08
3749	BRADDOCK ST	N64 02405 0003	\$246.40	\$722.40	\$287.51	\$198.72	\$560.62	\$0.00	\$2,015.65
3800	BRADDOCK ST	N64 02405 0013	\$224.40	\$657.90	\$1,155.08	\$1,803.60	\$829.02	\$0.00	\$5,095.00
3801	BRADDOCK ST	N64 02405 0002	\$35.20	\$103.20	\$306.60	\$788.40	\$0.00	\$0.00	\$1,233.40
3808	BRADDOCK ST	N64 02405 0012	\$76.56	\$224.46	\$0.00	\$0.00	\$0.00	\$0.00	\$301.02
3809	BRADDOCK ST	N64 02405 0001	\$30.80	\$90.30	\$130.20	\$334.80	\$0.00	\$0.00	\$586.10
3817	BRADDOCK ST	N64 02404 0007	\$202.40	\$593.40	\$567.00	\$928.80	\$548.80	\$0.00	\$2,840.40
3833	BRADDOCK ST	N64 02404 0006	\$0.00	\$0.00	\$37.80	\$97.20	\$0.00	\$0.00	\$135.00
3850	BRADDOCK ST	N64 02404 0021	\$228.80	\$670.80	\$1,151.70	\$1,706.40	\$864.81	\$0.00	\$5,110.01
3866	BRADDOCK ST	N64 02404 0020	\$193.60	\$567.60	\$355.68	\$172.80	\$262.50	\$0.00	\$2,086.25
3900	BRADDOCK ST	N64 02404 0019	\$198.00	\$580.50	\$0.00	\$0.00	\$0.00	\$0.00	\$778.50
3908	BRADDOCK ST	N64 02404 0018	\$299.20	\$877.20	\$92.40	\$237.60	\$0.00	\$0.00	\$1,506.40
3916	BRADDOCK ST	N64 02404 0017	\$510.40	\$1,496.40	\$344.82	\$216.00	\$695.52	\$0.00	\$3,263.14
3925	BRADDOCK ST	N64 02404 0015	\$52.80	\$154.80	\$37.80	\$97.20	\$0.00	\$0.00	\$342.60
840	BROOKFIELD RD	N64 01112 0044	\$158.40	\$464.40	\$130.20	\$0.00	\$347.20	\$0.00	\$1,100.20
3201	CARRIER AVE	N64 00104 0005	\$500.72	\$1,468.02	\$477.96	\$725.76	\$521.92	\$0.00	\$3,694.38
2856	COMANCHE DR	N64 02103 0014	\$105.60	\$309.60	\$0.00	\$0.00	\$0.00	\$0.00	\$415.20
2432	DANUBE CT	N64 01807 0024	\$224.40	\$657.90	\$473.61	\$442.80	\$568.57	\$0.00	\$2,629.78
2098	E DAVID RD	N64 02012 0002	\$0.00	\$0.00	\$308.70	\$793.80	\$0.00	\$0.00	\$1,102.50
3100	DELANEY ST	N64 01805 0035	\$228.80	\$670.80	\$740.44	\$262.50	\$619.30	\$0.00	\$3,601.84
3101	DELANEY ST	N64 01805 0026	\$448.80	\$1,315.80	\$659.72	\$654.48	\$760.20	\$0.00	\$4,196.60
3108	DELANEY ST	N64 01805 0050	\$164.56	\$482.46	\$407.93	\$216.00	\$275.00	\$0.00	\$2,163.35
3112	DELANEY ST	N64 01805 0049	\$224.40	\$657.90	\$454.90	\$388.80	\$585.87	\$0.00	\$2,561.87
3116	DELANEY ST	N64 01805 0048	\$413.60	\$1,212.60	\$610.18	\$799.20	\$250.00	\$0.00	\$3,859.92

**FINAL ASSESSMENT COSTS for
2017 Curb, Sidewalk & Drive Approach Repair Project**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST
3120 DELANEY ST	N64 01805 0047	\$110.00	\$322.50	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$432.50
3121 DELANEY ST	N64 01805 0031	\$352.00	\$1,032.00	\$684.98	\$664.00	\$312.50	\$650.81	\$0.00	\$3,896.09
3124 DELANEY ST	N64 01805 0046	\$310.64	\$910.74	\$401.90	\$302.40	\$232.50	\$549.81	\$0.00	\$2,707.99
3128 DELANEY ST	N64 01805 0045	\$369.60	\$1,083.60	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,453.20
3129 DELANEY ST	N64 01805 0033	\$167.20	\$490.20	\$533.19	\$626.40	\$252.50	\$546.00	\$0.00	\$2,615.49
3132 DELANEY ST	N64 01806 0028	\$286.00	\$838.50	\$257.46	\$95.04	\$0.00	\$588.00	\$0.00	\$2,065.00
3133 DELANEY ST	N64 01805 0034	\$176.00	\$516.00	\$637.01	\$799.20	\$275.00	\$623.50	\$0.00	\$3,026.71
3136 DELANEY ST	N64 01806 0027	\$170.72	\$500.52	\$380.02	\$183.60	\$252.50	\$596.74	\$0.00	\$2,084.10
3137 DELANEY ST	N64 01806 0001	\$190.96	\$559.86	\$516.01	\$591.84	\$250.00	\$538.27	\$0.00	\$2,646.94
3140 DELANEY ST	N64 01806 0026	\$179.52	\$526.32	\$455.70	\$604.80	\$0.00	\$588.00	\$0.00	\$2,354.34
3141 DELANEY ST	N64 01806 0002	\$198.00	\$580.50	\$423.26	\$280.80	\$255.00	\$609.00	\$0.00	\$2,346.56
3145 DELANEY ST	N64 01806 0003	\$343.20	\$1,006.20	\$468.97	\$367.20	\$270.00	\$627.87	\$0.00	\$3,083.44
3204 DELANEY ST	N64 01806 0023	\$220.00	\$645.00	\$363.32	\$86.40	\$265.00	\$641.82	\$0.00	\$2,221.54
3205 DELANEY ST	N64 01806 0006	\$224.40	\$657.90	\$457.42	\$356.40	\$257.50	\$619.47	\$0.00	\$2,573.09
3208 DELANEY ST	N64 01806 0022	\$171.60	\$503.10	\$367.50	\$129.60	\$262.50	\$610.40	\$0.00	\$2,044.70
3209 DELANEY ST	N64 01806 0007	\$171.60	\$503.10	\$400.26	\$248.40	\$247.50	\$588.00	\$0.00	\$2,158.86
3212 DELANEY ST	N64 01806 0021	\$173.36	\$508.26	\$314.58	\$43.20	\$230.00	\$588.00	\$0.00	\$1,857.40
3213 DELANEY ST	N64 01806 0008	\$184.80	\$541.80	\$474.05	\$607.60	\$222.50	\$538.38	\$0.00	\$2,469.13
3220 DELANEY ST	N64 01807 0039	\$162.80	\$477.30	\$558.18	\$669.60	\$230.00	\$588.00	\$0.00	\$2,685.88
3221 DELANEY ST	N64 01806 0010	\$162.80	\$477.30	\$364.14	\$172.80	\$227.50	\$588.00	\$0.00	\$2,009.84
3224 DELANEY ST	N64 01807 0038	\$167.20	\$490.20	\$380.77	\$97.20	\$290.00	\$654.75	\$0.00	\$2,308.48
3228 DELANEY ST	N64 01807 0037	\$225.28	\$660.48	\$380.77	\$97.20	\$290.00	\$654.75	\$0.00	\$2,843.98
3304 DELANEY ST	N64 01807 0035	\$321.20	\$941.70	\$425.78	\$270.00	\$287.50	\$597.80	\$0.00	\$2,498.40
3305 DELANEY ST	N64 01807 0025	\$343.20	\$1,006.20	\$315.00	\$162.00	\$0.00	\$672.00	\$0.00	\$2,498.40
3308 DELANEY ST	N64 01807 0034	\$193.60	\$567.60	\$283.33	\$0.00	\$225.00	\$553.95	\$0.00	\$1,823.48
3309 DELANEY ST	N64 01807 0026	\$180.40	\$528.90	\$220.50	\$0.00	\$0.00	\$588.00	\$0.00	\$1,517.80
3312 DELANEY ST	N64 01807 0033	\$163.68	\$479.88	\$317.98	\$108.00	\$262.50	\$500.75	\$0.00	\$1,832.79
3313 DELANEY ST	N64 01807 0027	\$0.00	\$0.00	\$64.68	\$166.32	\$0.00	\$0.00	\$0.00	\$231.00
3316 DELANEY ST	N64 01807 0032	\$162.80	\$477.30	\$284.00	\$86.40	\$200.00	\$488.54	\$0.00	\$1,699.04
3317 DELANEY ST	N64 02014 0002	\$714.56	\$2,094.96	\$745.79	\$570.24	\$460.00	\$985.26	\$0.00	\$5,570.81
3320 DELANEY ST	N64 01807 0031	\$290.40	\$851.40	\$547.68	\$533.52	\$287.50	\$649.60	\$0.00	\$3,160.10
3324 DELANEY ST	N64 02014 0001	\$399.52	\$1,171.32	\$791.95	\$762.48	\$452.50	\$915.71	\$0.00	\$4,493.48
3490 FAR HILLS AVE	N64 04518 0001	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
3689 LISBON ST	N64 02204 0019	\$0.00	\$0.00	\$147.00	\$378.00	\$0.00	\$0.00	\$0.00	\$525.00
3704 LISBON ST	N64 02204 0007	\$0.00	\$0.00	\$153.30	\$394.20	\$0.00	\$0.00	\$0.00	\$547.50
4416 MEADOWCROFT RD	N64 02410 0083	\$0.00	\$0.00	\$396.90	\$1,020.60	\$0.00	\$0.00	\$0.00	\$1,417.50
535 MONTERAY AVE	N64 00201 0062	\$52.80	\$154.80	\$371.70	\$955.80	\$0.00	\$0.00	\$0.00	\$1,535.10
1460 OLD LANE AVE	N64 00904 0003	\$0.00	\$0.00	\$157.50	\$405.00	\$0.00	\$0.00	\$0.00	\$562.50
2600 OLSON DR	N64 02015 0032	\$506.00	\$1,483.50	\$680.69	\$451.44	\$470.00	\$925.90	\$0.00	\$4,517.53
3724 POBST DR	N64 00410 0036	\$431.20	\$1,264.20	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,695.40
2601 STROOP RD	N64 02404 0016	\$184.80	\$541.80	\$134.40	\$345.60	\$0.00	\$0.00	\$0.00	\$1,206.60
3037 E STROOP RD	N64 03013 0001	\$0.00	\$0.00	\$92.40	\$0.00	\$0.00	\$0.00	\$0.00	\$92.40
3533 TIFFANY DR	N64 02408 0012	\$334.40	\$980.40	\$617.86	\$583.20	\$287.50	\$785.23	\$0.00	\$3,588.59
3540 TIFFANY DR	N64 02408 0011	\$475.20	\$1,393.20	\$138.60	\$356.40	\$0.00	\$0.00	\$0.00	\$2,363.40
3541 TIFFANY DR	N64 02408 0013	\$0.00	\$0.00	\$88.20	\$226.80	\$0.00	\$0.00	\$0.00	\$315.00

**FINAL ASSESSMENT COSTS for
2017 Curb, Sidewalk & Drive Approach Repair Project**

Repair Address	Parcel Number	Curb Removal	Concrete Curb	Flatwork Removal	4" Sidewalk	6" Sidewalk	6in Drive Approach	Asphalt Drive Appr.	TOTAL EST. COST	
3548	TIFFANY DR	N64 02408 0010	\$360.80	\$1,057.80	\$453.29	\$496.80	\$137.50	\$570.36	\$0.00	\$3,076.55
3549	TIFFANY DR	N64 02408 0014	\$264.00	\$774.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$1,038.00
3600	TIFFANY DR	N64 02408 0009	\$253.44	\$743.04	\$659.82	\$918.00	\$262.50	\$572.32	\$0.00	\$3,409.12
3601	TIFFANY DR	N64 02408 0015	\$26.40	\$77.40	\$126.00	\$324.00	\$0.00	\$0.00	\$0.00	\$553.80
3608	TIFFANY DR	N64 02408 0008	\$158.40	\$464.40	\$126.00	\$324.00	\$0.00	\$0.00	\$0.00	\$1,072.80
3609	TIFFANY DR	N64 02408 0016	\$0.00	\$0.00	\$445.20	\$1,144.80	\$0.00	\$0.00	\$0.00	\$1,590.00
3616	TIFFANY DR	N64 02408 0007	\$224.40	\$657.90	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$882.30
3617	TIFFANY DR	N64 02408 0017	\$396.00	\$1,161.00	\$491.40	\$118.80	\$412.50	\$817.60	\$0.00	\$3,397.30
3624	TIFFANY DR	N64 02408 0006	\$61.60	\$180.60	\$42.00	\$108.00	\$0.00	\$0.00	\$0.00	\$392.20
3625	TIFFANY DR	N64 02408 0018	\$294.80	\$864.30	\$437.43	\$97.20	\$375.00	\$729.68	\$0.00	\$2,798.41
3632	TIFFANY DR	N64 02408 0005	\$264.00	\$774.00	\$787.29	\$1,257.12	\$262.50	\$560.56	\$0.00	\$3,905.47
3640	TIFFANY DR	N64 02408 0004	\$202.40	\$593.40	\$291.90	\$0.00	\$0.00	\$778.40	\$0.00	\$1,866.10
3641	TIFFANY DR	N64 02408 0020	\$228.80	\$670.80	\$508.87	\$550.80	\$262.50	\$550.59	\$0.00	\$2,772.36
3700	TIFFANY DR	N64 02408 0003	\$30.80	\$90.30	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$121.10
3701	TIFFANY DR	N64 02408 0021	\$387.20	\$1,135.20	\$344.93	\$125.28	\$262.50	\$554.68	\$0.00	\$2,809.79
3708	TIFFANY DR	N64 02408 0002	\$264.00	\$774.00	\$862.18	\$1,080.00	\$402.50	\$818.50	\$0.00	\$4,201.18
3716	TIFFANY DR	N64 02408 0001	\$0.00	\$0.00	\$33.60	\$86.40	\$0.00	\$0.00	\$0.00	\$120.00
3717	TIFFANY DR	N64 02408 0022	\$0.00	\$0.00	\$84.00	\$216.00	\$0.00	\$0.00	\$0.00	\$300.00
3724	TIFFANY DR	N64 02405 0017	\$184.80	\$541.80	\$367.50	\$108.00	\$262.50	\$632.80	\$0.00	\$2,097.40
2500	UHL CT	N64 01806 0024	\$169.84	\$497.94	\$485.69	\$442.80	\$262.50	\$600.77	\$0.00	\$2,459.54
2501	UHL CT	N64 01806 0025	\$193.60	\$567.60	\$692.50	\$1,490.40	\$337.50	\$632.00	\$0.00	\$4,013.60
4215	UPHAM RD	N64 01307 0017	\$61.60	\$180.60	\$389.72	\$0.00	\$350.00	\$725.65	\$0.00	\$1,707.57
1821	WILLAMET RD	N64 01416 0027	\$0.00	\$0.00	\$105.00	\$270.00	\$0.00	\$0.00	\$0.00	\$375.00
		158	\$40,328.64	\$118,236.24	\$55,726.21	\$60,191.64	\$23,350.00	\$65,014.25	\$0.00	\$362,846.98

CITY OF KETTERING, OHIO
AN EMERGENCY ORDINANCE

By:

No.

**TO AMEND VARIOUS SECTIONS OF CHAPTER
192 OF THE CODIFIED ORDINANCES
REGARDING INCOME TAX TO INCORPORATE
CHANGES REQUIRED BY THE STATE OF OHIO
AND DECLARING AN EMERGENCY**

WHEREAS, House Bill (H.B.) 49 of the 132nd General Assembly, the State's general appropriations bill for the biennium, includes uncodified Section 803.100 purporting to require that municipalities adopt certain municipal income tax provisions that are also adopted within H.B. 49 to authorize State officials to collect and administer municipal net profits taxes; and

WHEREAS, Section 803.100 of H.B. 49 references and relies upon Section 718.04(A) of the Ohio Revised Code, which purports to make municipal income taxing authority conditional upon a municipality's adoption of code sections as dictated by the State; and

WHEREAS, although the municipal income tax provisions of H.B. 49, and Section 718.04(A) of the Ohio Revised Code, violate the Home Rule Amendment, the City nevertheless is compelled to adopt H.B. 49's municipal income tax provisions, to avoid any doubt as to its ability to impose a municipal income tax under the terms of Section 803.100 of H.B. 49 and Section 718.04(A) of the Ohio Revised Code; and

WHEREAS, the City is a party to ongoing litigation seeking a declaration that the H.B. 49 municipal income tax provisions, Section 718.04(A) of the Ohio Revised Code, and other provisions of Ohio law that usurp the powers of local self-government are unconstitutional, and to enjoin all actions by state officials to implement the H.B. 49 municipal income tax provisions; and

WHEREAS, the City, by enacting this Ordinance, does not concede the legality of H.B. 49's municipal income tax provisions, Section 718.04(A) of the Ohio Revised Code, or any other law that is subject to the lawsuit in which the City is participating, and reserves its right to continue prosecution of that lawsuit;

NOW, THEREFORE, Be It Ordained by the Council of the City of Kettering, State of Ohio, at least five of the members concurring, that:

Section 1. Sections 192.03, 192.041, 192.062, 192.063, and 192.07 of the Codified Ordinances are amended to read as set forth in Exhibit A, attached hereto and incorporated herein, for tax years starting on and after January 1, 2018.

Section 2. Council hereby expressly finds and determines that it does not concede the legality of H.B. 49's municipal income tax provisions; Section 803.100 of H.B. 49; Section 718.04(A) of the Ohio Revised Code; or any other law that is the subject of the action pending in Case Number 2017 CV 10258 in the Franklin County Court of Common Pleas, and that the City reserves its rights to continue its participation in and prosecution of said litigation, and any other litigation challenging the State's authority to dictate municipal tax collection and administration, and that adoption of this Ordinance shall not prejudice the claims of the City of Kettering therein.

Section 3. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety, which shall be effective upon passage, such emergency arising from the coercive provisions of law found in H.B. 49 and Section 718.04(A) of the Ohio Revised Code and the need for the City to comply with the H.B. 49 municipal income tax provisions and Section 718.04(A) of the Ohio Revised Code if and to the extent they are not declared to be unconstitutional.

Section 4. Council hereby finds that this Ordinance was deliberated upon and passed in open meetings in compliance with Section 121.22 of the Ohio Revised Code.

Section 5. If any provision of the H.B 49 municipal income tax provisions is found unconstitutional, or is stayed or enjoined, the provisions adopted in Section 1 of this Ordinance shall likewise be stayed.

Passed by Council this _____ day of _____ 2018.

BILL LAUTAR , Vice Mayor

ATTEST:

CERTIFICATE OF APPROVAL

LASHAUNAH D. KACZYNSKI,
Clerk of Council

THEODORE A. HAMER III,
Law Director

(Requested by: Law Department)

Key to Proposed Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

EXHIBIT A

(33 Total Pages Including This Page.)

Key to Proposed Amendments:

1. Existing language appears in regular type. Example: text
2. Existing language to be deleted appears in strikethrough. Example: ~~text~~
3. New language to be added appears in underline. Example: text

192.03 DEFINITIONS

Any term used in this Chapter that is not otherwise defined in this Chapter has the same meaning as when used in a comparable context in laws of the United States relating to federal income taxation or in Title LVII of the Ohio Revised Code, unless a different meaning is clearly required. Except as provided in section 718.81 of the Ohio Revised Code, if a term used in this Chapter that is not otherwise defined in this Chapter is used in a comparable context in both the laws of the United States relating to federal income tax and in Title LVII of the Ohio Revised Code, and the use is not consistent, then the use of the term in the laws of the United States relating to federal income tax shall control over the use of the term in Title LVII of the Ohio Revised Code.

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

Except as otherwise provided in section 718.81 of the Ohio Revised Code, As used in this Chapter:

(1) **"ADJUSTED FEDERAL TAXABLE INCOME,"** for a Person required to file as a C corporation, or for a Person that has elected to be taxed as a C corporation under division 23(~~E~~) of this section, means a C corporation's federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

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

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

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

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

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

(H) Deduct exempt income to the extent not otherwise deducted or excluded in computing adjusted federal taxable income.

~~(i) Except as limited by divisions (1)(H)(ii), (iii) and (iv) of this section, deduct any net operating loss incurred by the Person in a Taxable Year beginning on or after January 1, 2017. The amount of such Net Operating Loss shall be deducted from Net Profit that is reduced by Exempt Income to the extent necessary to reduce Municipal Taxable Income to zero, with any remaining unused portion of the Net Operating Loss carried forward to not more than five consecutive Taxable Years following the Taxable Year in which the loss was incurred, but in no case for more years than necessary for the deduction to be fully utilized;~~

~~(ii) No Person shall use the deduction allowed by division (1)(H) of this section to offset Qualifying Wages;~~

~~(iii) (a) For Taxable Years beginning in 2018, 2019, 2020, 2021, or 2022, a Person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (1)(H)(i) of this section;~~

~~(b) For Taxable Years beginning in 2023 or thereafter, a Person may deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, the full amount allowed by division (1)(H)(i) of this section;~~

~~(iv) Any Pre-2017 Net Operating Loss Carryforward deduction that is available must be utilized before a Taxpayer may deduct any amount pursuant to division (1)(H) of this section;~~

~~(v) Nothing in division (1)(H)(iii)(a) of this section precludes a Person from carrying forward, for use with respect to any return filed for a Taxable Year beginning after 2018, any amount of net operating loss that was not fully utilized by operation of division (1)(H)(iii)(a) of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more Taxable Years by operation of division (1)(H)(iii)(a) of this section is carried forward for use with respect to a return filed for a Taxable Year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (1)(H)(iii)(a) of this section shall apply to the amount carried forward;~~

(I) Deduct any net profit of a Pass-Through Entity owned directly or indirectly by the Taxpayer and included in the Taxpayer's federal taxable income unless an affiliated group of corporations includes that net profit in the group's federal taxable income in accordance with division (E)(3)(b) of Section 192.063 of this Chapter;

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

If the Taxpayer is not a C corporation, is not a Disregarded Entity that has made the election described in division (487)(B) of this section, is not a publicly traded partnership that has made the election described in division (23)(ED) of this section, and is not an individual, the Taxpayer shall compute adjusted federal taxable income under this section as if the Taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the Taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2) (A) **"ASSESSMENT"** means any of the following:

(i) A written finding by the Tax Administrator that a Person has underpaid municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the Municipality;

(ii) A full or partial denial of a refund request issued under Section 192.096 (B)(2) of this Chapter;

(iii) A Tax Administrator's denial of a Taxpayer's request for use of an alternative apportionment method, issued under Section 192.062(B)(2) of this Chapter; or

(iv) A Tax Administrator's requirement for a Taxpayer to use an alternative apportionment method, issued under Section 192.062(B)(3) of this Chapter.

(B) For purposes of division (2)(A)(i), (ii), (iii) and (iv) of this Section, an Assessment shall commence the Person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 192.18 of this Chapter, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

(C) **"ASSESSMENT"** does not include notice(s) denying a request for refund issued under Section 192.096 (B)(3) of this Chapter, a billing statement notifying a Taxpayer of current or past-due balances owed to the Municipality, a Tax Administrator's request for additional information, a notification to the Taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a Person or Taxpayer that does not meet the criteria prescribed by division (2)(A) of this section.

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

(4) **"BOARD OF REVIEW"** has the same meaning as "Local Board of Tax Review".

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

(6) **"CASINO OPERATOR"** and **"CASINO FACILITY"** have the same meanings as in Section 3772.01 of the Ohio Revised Code.

(7) **"CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL SERVICE,"** and similar terms include any delivery service authorized pursuant to Section 5703.056 of the Ohio Revised Code.

(8) **"COMPENSATION"** means any form of remuneration paid to an employee for personal services.

(9) **"DISREGARDED ENTITY"** means a Single Member Limited Liability Company, a qualifying subchapter S subsidiary, or another entity if the company, subsidiary, or entity is a disregarded entity for federal income tax purposes.

(10) **"DOMICILE"** means the true, fixed and permanent home of the Taxpayer to which, whenever absent, the Taxpayer intends to return.

(11) **"EXEMPT INCOME"** means all of the following:

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

(B) (i) Except as provided in division (11)(B)(ii) of this section, Intangible Income;

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

(C) Social security benefits, railroad retirement benefits, unemployment compensation, Pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (11)(C) of this section, "unemployment compensation" does not include supplemental unemployment compensation described in section 3402(o)(2) of the Internal Revenue Code;

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

(E) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a Person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the Taxable Year. Such compensation in excess of one thousand dollars for the Taxable Year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation;

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

(G) Alimony and child support received;

(H) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;

(I) Income of a public utility when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code. Division (11)(I) of this section does not apply for purposes of Chapter 5745 of the Ohio Revised Code;

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

(K) Compensation or allowances excluded from federal gross income under section 107 of the Internal Revenue Code;

(L) Employee compensation that is not Qualifying Wages as defined in division (34) of this section;

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

(N) An S Corporation shareholder's distributive share of net profits of the S Corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code;

(O) All of the Municipal Taxable Income earned by individuals under eighteen years of age;

(P) (i) Except as provided in divisions (11)(P)(ii), (iii), and (iv) of this section, Qualifying Wages described in division (B)(1) or (E) of Section 192.052 of this Chapter to the extent the Qualifying Wages are not subject to withholding for the Municipality under either of those divisions;

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

(iii) The exemption provided in division (11)(P)(i) of this section does not apply to Qualifying Wages that an employer elects to withhold under division (D)(2) of Section 192.052 of this Chapter;

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

(a) For Qualifying Wages described in division (B)(1) of Section 192.052 of this Chapter, the employee's employer withholds and remits tax on the Qualifying Wages to the municipal corporation in which the employee's principal place of work is situated, or, for Qualifying Wages described in division (E) of Section 192.052 of this Chapter, the employee's employer withholds and remits tax on the Qualifying Wages to the municipal corporation in which the employer's fixed location is located; and

(b) The employee receives a refund of the tax described in division (11)(P)(iv)(a) of this section on the basis of the employee not performing services in that municipal corporation.

(Q) (i) Except as provided in division (11)(Q)(ii) or (iii) of this section, compensation that is not Qualifying Wages paid to a Nonresident individual for personal services performed in the Municipality on not more than twenty days in a Taxable Year.

(ii) The exemption provided in division (11)(Q)(i) of this section does not apply under either of the following circumstances:

(a) The individual's base of operation is located in the Municipality;

(b) The individual is a professional athlete, professional entertainer, or public figure, and the compensation is paid for the performance of services in the individual's capacity as a professional athlete, professional entertainer, or public figure. For purposes of division (11)(Q)(ii)(b) of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 192.052 of this Chapter.

(iii) Compensation to which division (11)(Q) of this section applies shall be treated as earned or received at the individual's base of operation. If the individual does not have a base of operation, the compensation shall be treated as earned or received where the individual is Domiciled.

(iv) For purposes of division (11)(Q) of this section, "base of operation" means the location where an individual owns or rents an office, storefront, or similar facility to which the individual regularly reports and at

which the individual regularly performs personal services for compensation.

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

(S) Income the taxation of which is prohibited by the constitution or laws of the United States; and

(T) Mentally retarded and developmentally disabled employees earning less than the minimum hourly wage while employed at government-sponsored sheltered workshops shall be exempt from the levy of the tax provided herein.

Any item of income that is Exempt Income of a Pass-Through Entity under division (11) of this section is Exempt Income of each owner of the Pass-Through Entity to the extent of that owner's distributive or proportionate share of that item of the entity's income.

(12) "**FORM 2106**" means Internal Revenue Service form 2106 filed by a Taxpayer pursuant to the Internal Revenue Code.

(13) "**GENERIC FORM**" means an electronic or paper form that is not prescribed by a particular municipal corporation and that is designed for reporting taxes withheld by an employer, agent of an employer, or Other Payer, estimated municipal income taxes, or annual municipal income tax liability, including a request for refund.

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

(A) (i) For Residents, all income, salaries, Qualifying Wages, commissions, and other compensation from whatever source earned or received by the Resident, including the Resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the Resident and any net profit of the Resident, except as provided in division (23)(E) of this section;

(ii) For the purposes of division (14)(A)(i) of this section:

(a) Any Net Operating Loss of the Resident incurred in the Taxable Year and the Resident's distributive share of any Net Operating Loss generated in the same Taxable Year and attributable to the Resident's ownership interest in a Pass-

Through Entity shall be allowed as a deduction, for that Taxable Year and the following five Taxable Years, against any other Net Profit of the Resident or the Resident's distributive share of any net profit attributable to the Resident's ownership interest in a Pass-Through Entity until fully utilized, subject to division (14)(A)(iv) of this section;

(b) The Resident's distributive share of the net profit of each Pass-Through Entity owned directly or indirectly by the Resident shall be calculated without regard to any net operating loss that is carried forward by that entity from a prior Taxable Year and applied to reduce the entity's net profit for the current Taxable Year.

(iii) Division (14)(A)(ii) of this section does not apply with respect to any net profit or net operating loss attributable to an ownership interest in an S Corporation unless shareholders' distributive shares of net profits from S Corporations are subject to tax in the municipal corporation as provided in division 11(N) or division 14(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 Municipality, including any Net Profit of the Nonresident, but excluding the Nonresident's distributive share of the net profit or loss of only pass-through entities owned directly or indirectly by the Nonresident;

(C) For Taxpayers that are not individuals, Net Profit of the Taxpayer;

(D) Lottery, sweepstakes, gambling and sports winnings, winnings from games of chance, and prizes and awards. If the Taxpayer is a professional gambler for federal income tax purposes, the Taxpayer may deduct related wagering losses and expenses to the extent authorized under the Internal Revenue Code and claimed against such winnings. Credit for tax withheld or paid to another municipal corporation on such winnings paid to the municipal corporation where winnings occur is limited to the credit as specified in Section 192.081 of this Chapter; and

(E) INTENTIONALLY LEFT BLANK.

(15) **"INTANGIBLE INCOME"** means income of any of the following types: income yield, interest, capital gains, dividends, or other income arising from the ownership, sale, exchange, or other disposition of intangible property including, but not limited to, investments, deposits, money, or credits as those terms are defined in Chapter 5701 of the Ohio Revised Code, and patents, copyrights, trademarks, trade names, investments in real estate investment trusts, investments in regulated investment companies, and appreciation on deferred compensation. "Intangible Income" does not include prizes, awards, or other income associated with any lottery winnings, gambling winnings, or other similar games of chance.

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

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

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

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

(20) (A) **"MUNICIPAL TAXABLE INCOME"** means the following:

(i) For a Person other than an individual, ~~Income reduced by Exempt Income to the extent otherwise included in Income and then, as applicable, apportioned or situated to the Municipality under Section 192.062 of this Chapter, as applicable, and further reduced by any Pre-2017 Net Operating Loss Carryforward available to the Person for the Municipality;~~

(ii) (a) For an individual who is a resident of a municipal corporation other than a Qualified Municipal Corporation, Income reduced by Exempt Income to the extent otherwise included in Income, then reduced as provided in division (20)(B) of this section, and further reduced by any Pre-2017 Net Operating Loss Carryforward available to the individual for the Municipality;

(b) For an individual who is a resident of a Qualified Municipal Corporation, Ohio adjusted gross income reduced by income exempted, and increased by deductions excluded, by the Qualified Municipal Corporation from the Qualified Municipal Corporation's tax on or before December 31, 2013. If a Qualified Municipal Corporation, on or before December 31, 2013, exempts income earned by individuals who are not residents of the

Qualified Municipal Corporation and net profit of Persons that are not wholly located within the Qualified Municipal Corporation, such individual or Person shall have no Municipal Taxable Income for the purposes of the tax levied by the Qualified Municipal Corporation and may be exempted by the Qualified Municipal Corporation from the requirements of section 718.03 of the Ohio Revised Code.

(iii) For an individual who is a Nonresident of the Municipality, Income reduced by Exempt Income to the extent otherwise included in Income and then, as applicable, apportioned or situated to the Municipality under Section 192.062 of this Chapter, then reduced as provided in division (20)(B) of this section, and further reduced by any Pre-2017 Net Operating Loss Carryforward available to the individual for the Municipality.

(B) In computing the Municipal Taxable Income of a Taxpayer who is an individual, the Taxpayer may subtract, as provided in division (20)(A)(ii)(a) or (iii) of this section, the amount of the individual's employee business expenses reported on the individual's Form 2106 that the individual deducted for federal income tax purposes for the Taxable Year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the Taxpayer is a resident, the Taxpayer may deduct all such expenses allowed for federal income tax purposes. For a municipal corporation in which the Taxpayer is not a resident, the Taxpayer may deduct such expenses only to the extent the expenses are related to the Taxpayer's performance of personal services in that nonresident municipal corporation.

(21) **"MUNICIPALITY"** and **"KETTERING"** means the City of Kettering, Ohio.

(22) **"NET OPERATING LOSS"** means a loss incurred by a Person in the operation of a trade or business. "Net operating loss" does not include unutilized losses resulting from basis limitations, at-risk limitations, or passive activity loss limitations.

(23) (A) **"NET PROFIT"** for a Person other than an individual means adjusted federal taxable income reduced by any Net Operating Loss incurred by the person in a taxable year beginning on or after January 1, 2017, subject to the limitations of division (23)(C) of this section.

(B) **"NET PROFIT"** for a Person who is an individual means the individual's net profit required to be reported on Schedule C, Schedule E, or Schedule F reduced by any Net Operating Loss carried forward. For the purposes of this division, the Net Operating Loss carried forward shall be calculated and deducted in the same manner as provided in division ~~(231)~~(C) of this section.

(C) (i) The amount of such Net Operating Loss shall be deducted from Net Profit 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 (23)(C) of this section to offset Qualifying Wages;

(iii) (a) For Taxable Years beginning in 2018, 2019, 2020, 2021, or 2022, a Person may not deduct, for purposes of an income tax levied by a municipal corporation that levies an income tax before January 1, 2016, more than fifty per cent of the amount of the deduction otherwise allowed by division (23)(C)(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 (23)(C) of this section without regard to the limitation of division (23)(C)(iii)(a) of this section;

(iv) Any Pre-2017 Net Operating Loss Carryforward deduction that is available may be utilized before a Taxpayer may deduct any amount pursuant to division (23)(C) of this section;

(v) Nothing in division (23)(C)(iii)(a) of this section precludes a Person from carrying forward, for use with respect to any return filed for a Taxable Year beginning after 2018, any amount of Net Operating Loss that was not fully utilized by operation of division (23)(C)(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 (23)(C)(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 (23)(C)(iii)(a) of this section shall apply to the amount carried forward;

~~(DG)~~ For the purposes of this Chapter, and notwithstanding division (23)(A) of this section, net profit of a Disregarded Entity shall not be taxable as against that Disregarded Entity, but shall instead be included in the net profit of the owner of the Disregarded Entity.

~~(ED)~~ (i) For purposes of this Chapter, “publicly traded partnership” means any partnership, an interest in which is regularly traded on an established securities market. A “publicly traded partnership” may have any number of partners.

(ii) For the purposes of this Chapter, and notwithstanding any other provision of this Chapter, the net profit of a publicly traded partnership that makes the election described in division (23)~~(ED)~~ of this section shall be taxed as if the partnership were a C corporation, and shall not be treated as the net profit or income of any owner of the partnership.

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

(iv) An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (E)(iii) of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first Taxable Year of the election and continues to be binding for each subsequent five-year period unless the Taxpayer elects to discontinue filing municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

(v) The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (E) of this section applies to all municipal corporations in which an individual owner of the partnership resides.

(vi) The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence and report their distributive share of partnership net profit.

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

(25) **"OHIO BUSINESS GATEWAY"** means the online computer network system, created under section 125.30 of the Ohio Revised Code, that allows Persons to electronically file business reply forms with state agencies and includes any successor electronic filing and payment system.

(26) **"OTHER PAYER"** means any Person, other than an individual's employer or the employer's agent, who pays an individual any amount included in the federal gross income of the individual. "Other payer" includes casino operators and Video Lottery Terminal Sales Agents.

(27) **"PASS-THROUGH ENTITY"** means a partnership not treated as an association taxable as a C corporation for federal income tax purposes, a limited liability company

not treated as an association taxable as a C corporation for federal income tax purposes, an S Corporation, or any other class of entity from which the income or profits of the entity are given pass-through treatment for federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or Disregarded Entity.

(28) **"PENSION"** means any amount paid to an employee or former employee that is reported to the recipient on an IRS Form 1099-R, or successor form. Pension does not include deferred compensation, or amounts attributable to nonqualified deferred compensation plans, reported as FICA/Medicare wages on an IRS Form W-2, Wage and Tax Statement, or successor form.

(29) **"PERSON"** includes individuals, firms, companies, joint stock companies, business trusts, estates, trusts, partnerships, limited liability partnerships, limited liability companies, associations, C corporations, S Corporations, governmental entities, and any other entity.

(30) **"POSTAL SERVICE"** means the United States Postal Service, or private delivery service delivering documents and packages within an agreed upon delivery schedule, or any other carrier service delivering the item.

(31) **"POSTMARK DATE," "DATE OF POSTMARK,"** and similar terms include the date recorded and marked by a delivery service and recorded electronically to a database kept in the regular course of its business and marked on the cover in which the payment or document is enclosed, the date on which the payment or document was given to the delivery service for delivery.

(32) (A) **"PRE-2017 NET OPERATING LOSS CARRYFORWARD"** means any Net Operating Loss incurred in a Taxable Year beginning before January 1, 2017, to the extent such loss was permitted by a resolution or ordinance of the Municipality that was adopted by the Municipality before January 1, 2016, to be carried forward and utilized to offset Income or Net Profit generated in the Municipality in future Taxable Years.

(B) For the purpose of calculating Municipal Taxable Income, any Pre-2017 Net Operating Loss Carryforward may be carried forward to any Taxable Year, including Taxable Years beginning in 2017 or thereafter, for the number of Taxable Years provided in the resolution or ordinance or until fully utilized, whichever is earlier.

(33) **"QUALIFIED MUNICIPAL CORPORATION"** means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by section 5747.01 of the Ohio Revised Code, as the income subject to tax for the purposes of imposing a municipal income tax.

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

(A) Deduct the following amounts:

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

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

(iii) INTENTIONALLY LEFT BLANK;

(iv) INTENTIONALLY LEFT BLANK; and

(v) Any amount included in wages that is Exempt Income.

(B) Add the following amounts:

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

(ii) Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (34)(B)(ii) of this section applies only to those amounts constituting ordinary income;

(iii) Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (34)(B)(iii) of this section applies only to employee contributions and employee deferrals;

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

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

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

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

(b) For no preceding Taxable Year did the amount constitute wages as defined in section 3121(a) of the Internal Revenue Code;

(c) For no succeeding Taxable Year will the amount constitute wages; and

(d) For any Taxable Year the amount has not otherwise been added to wages pursuant to either division (34)(B) of this section or section 718.03 of the Ohio Revised Code, as that section existed before the effective date of H.B. 5 of the 130th general assembly, March 23, 2015.

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

(A) An individual stockholder, or a member of the stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder and the members of the stockholder's family own directly, indirectly, beneficially, or constructively, in the aggregate, at least fifty per cent of the value of the Taxpayer's outstanding stock;

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

(C) A corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under division (35)(D) of this section, provided the Taxpayer owns directly, indirectly, beneficially, or constructively, at least fifty per cent of the value of the corporation's outstanding stock; or

(D) The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (35)(A) to (C) of this section have been met.

(36) **"RELATED MEMBER"** means a Person that, with respect to the Taxpayer during all or any portion of the Taxable Year, is either a Related Entity, a component member as defined in section 1563(b) of the Internal Revenue Code, or a Person to or from whom there is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue Code except, for purposes of determining whether a Person is a related member under this division, "twenty per cent" shall be substituted for "5 percent" wherever "5 percent" appears in section 1563(e) of the Internal Revenue Code.

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

(38) **"S CORPORATION"** means a Person that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its Taxable Year.

(39) **"SCHEDULE C"** means Internal Revenue Service Schedule C (Form 1040) filed by a Taxpayer pursuant to the Internal Revenue Code.

(40) **"SCHEDULE E"** means Internal Revenue Service Schedule E (Form 1040) filed by a Taxpayer pursuant to the Internal Revenue Code.

(41) **"SCHEDULE F"** means Internal Revenue Service Schedule F (Form 1040) filed by a Taxpayer pursuant to the Internal Revenue Code.

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

(43) **"SMALL EMPLOYER"** means any employer that had total revenue of less than five hundred thousand dollars during the preceding Taxable Year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the federal government; any state government, including any state agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

(44) **"TAX ADMINISTRATOR"** means the individual charged with direct responsibility for administration of an income tax levied by a municipal corporation in accordance with this Chapter, and also includes the following:

(A) A municipal corporation acting as the agent of another municipal corporation;

(B) A Person retained by a municipal corporation to administer a tax levied by the municipal corporation, but only if the municipal corporation does not compensate the Person in whole or in part on a contingency basis; and

(C) The Central Collection Agency (CCA) or the Regional Income Tax Agency (RITA) or their successors in interest, or another entity organized to perform functions similar to those performed by the Central Collection Agency and the Regional Income Tax Agency.

Tax Administrator does not include the Tax Commissioner.

(45) **"TAX COMMISSIONER"** means the tax commissioner appointed under section 121.03 of the Ohio Revised Code.

(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 this Chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (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 section 718.01 of the Ohio Revised Code as this section existed on December 31, 2004;

(d) The limited liability company was not formed for the purpose of evading or reducing Ohio municipal corporation income tax liability of the limited liability company or its single member; and

(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 (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 four hundred thousand dollars.

(498) **"TAXPAYERS' RIGHTS AND RESPONSIBILITIES"** means the rights provided to Taxpayers in sections 718.11 , 718.12 , 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011 , and 5717.03 of the Ohio Revised Code and any corresponding ordinances of the Municipality, and the responsibilities of Taxpayers to file, report, withhold, remit, and pay municipal income tax and otherwise comply with Chapter 718 of the Ohio Revised Code and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a municipal income tax.

(5049) **"VIDEO LOTTERY TERMINAL"** has the same meaning as in section 3770.21 of the Ohio Revised Code.

(510) **"VIDEO LOTTERY TERMINAL SALES AGENT"** means a lottery sales agent licensed under Chapter 3770 of the Ohio Revised Code to conduct Video Lottery Terminals on behalf of the state pursuant to section 3770.21 of the Ohio Revised Code.

192.041 DETERMINING MUNICIPAL TAXABLE INCOME FOR INDIVIDUALS

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

(1) "Income" reduced by "Exempt Income" to the extent such Exempt Income is otherwise included in Income, reduced by allowable employee business expense deduction as found in division (20)(B) of Section 192.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 192.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 192.03(34).

(ii) "Net Profit" is included in "Income", and is defined in Section 192.03(23) of this Chapter. This section also provides that the Net Operating Loss carryforward shall be calculated and deducted in the same manner as provided in division (234)(CH) of Section 192.03. Treatment of net profits received by an individual Taxpayer from rental real estate is provided in Section 192.062(E).

(iii) Section 192.03(14) provides the following: offsetting and Net Operating Loss carryforward treatment in (14)(A)(ii)(a); Resident's distributive share of net profit from pass through entity treatment in (14)(A)(ii)(b); treatment of S Corporation distributive share of net profit in the hands of the shareholder in (14)(A)(iii); restriction of amount of loss permitted to be carried forward for use by Taxpayer in a subsequent Taxable Year in (14)(A)(iv).

(iv) "Pass Through Entity" is defined in Section 192.03(27).

- (b) "Exempt Income" is defined in Section 192.03(11) of this Chapter.
- (c) Allowable employee business expense deduction is described in (20)(B) of Section 192.03 of this Chapter, and is subject to the limitations provided in that section.
- (d) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 192.03(32) of this Chapter.

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

- (1) "Income" reduced by "Exempt Income" to the extent such Exempt Income is otherwise included in Income, as applicable, apportioned or sitused to the Municipality as provided in Section 192.062 of this Chapter, reduced by allowable employee business expense deduction as found in (20)(B) of Section 192.03 of this Chapter, further reduced by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal Taxable Income".

(a) "Income" is defined in Section 192.03(14) of this Chapter.

(i) "Qualifying Wages" is defined in Section 192.03(34).

(ii) "Net Profit" is included in "Income", and is defined in Section 192.03(23) of this Chapter. This section also provides that the Net Operating Loss carryforward shall be calculated and deducted in the same manner as provided in division (234)(CH) of Section 192.03. "Net Profit" for a Nonresident individual includes any net profit of the Nonresident, but excludes the distributive share of net profit or loss of only pass through entity owned directly or indirectly by the Nonresident.

(iii) "Pass Through Entity" is defined in Section 192.03(27).

- (b) "Exempt Income" is defined in Section 192.03(11) of this Chapter.
- (c) "Apportioned or sitused to the Municipality as provided in Section 192.062 of this Chapter" includes the apportionment of net profit income attributable to work done or services performed in the Municipality. Treatment of net profits received by an individual Taxpayer from rental real estate is provided in Section 192.062(E).

- (d) "Allowable employee business expense deduction" as described in (20)(B) of Section 192.03 of this Chapter, is subject to the limitations provided in that section. For a Nonresident of the Municipality, the deduction is limited to the extent the expenses are related to the performance of personal services by the Nonresident in the Municipality.
- (e) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 192.03(32) of this Chapter.

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

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

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

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

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

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

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

(B) (1) If the apportionment factors described in division (A) of this section do not fairly represent the extent of a Taxpayer's business activity in the Municipality, the

Taxpayer may request, or the Tax Administrator of the Municipality may require, that the Taxpayer use, with respect to all or any portion of the Income of the Taxpayer, an alternative apportionment method involving one or more of the following:

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

(2) A Taxpayer request to use an alternative apportionment method shall be in writing and shall accompany a tax return, timely filed appeal of an Assessment, or timely filed amended tax return. The Taxpayer may use the requested alternative method unless the Tax Administrator denies the request in an Assessment issued within the period prescribed by division (A) of Section 192.19 of this Chapter.

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

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

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

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

- (a) The employer;
- (b) A vendor, customer, client, or patient of the employer, or a Related Member of such a vendor, customer, client, or patient;
- (c) A vendor, customer, client, or patient of a Person described in division (C)(1)(b) of this section, or a Related Member of such a vendor, customer, client, or patient.

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

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

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

(1) For Taxable Years beginning on or after January 1, 2016 through December 31, 2017, Gross receipts from the sale of tangible personal property shall be situated to the municipal corporation in which the sale originated. For the purposes of this division, a sale of property originates in a municipal corporation if, regardless of where title passes, the property meets any of the following criteria:

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

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

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

(2) For taxable years beginning on or after January 1, 2018, gross receipts from the sale of tangible personal property shall be situated to the municipal corporation only if, regardless of where title passes, the property meets either of the following criteria:

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

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

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

(43) To the extent included in Income, gross receipts from the sale of real property located in the municipal corporation shall be situated to the municipal corporation;

(54) To the extent included in Income, gross receipts from rents and royalties from real property located in the municipal corporation shall be situated to the municipal corporation;

(65) Gross receipts from rents and royalties from tangible personal property shall be situated to the municipal corporation based upon the extent to which the tangible personal property is used in the municipal corporation.

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

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

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

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

(G) If, in computing a Taxpayer's Adjusted Federal Taxable Income, the Taxpayer deducted any amount with respect to a stock option granted to an employee, and if the employee is not required to include in the employee's income any such amount or a portion thereof because it is exempted from taxation under divisions (11)(L) and (34)(A)(iv) of Section 192.03 of this Chapter, by a municipal corporation to which the Taxpayer has apportioned a portion of its net profit, the Taxpayer shall add the amount that is exempt from taxation to the Taxpayer's net profit that was apportioned to that municipal corporation. In no case shall a Taxpayer be required to add to its net profit that was apportioned to that municipal corporation any amount other than the amount upon which the employee would be required to pay tax were the amount related to the stock option not exempted from taxation.

This division applies solely for the purpose of making an adjustment to the amount of a

Taxpayer's net profit that was apportioned to a municipal corporation under this section.

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

192.063 CONSOLIDATED FEDERAL INCOME TAX RETURN

(A) As used in this section:

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

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

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

(4) "Incumbent local exchange carrier" has the same meaning as in section 4927.01 of the Ohio Revised Code;

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

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

(a) the Taxpayer elects to discontinue filing consolidated municipal income tax returns under division (B)(2) of this section; or

(b) the Taxpayer receives permission from the Tax Administrator. The Tax Administrator shall approve such a request for good cause shown.

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

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

(4) When a taxpayer makes the election allowed under section 718.80 of the Ohio Revised Code, a valid election made by the taxpayer under division (B)(1) or (2) of this section is binding upon the Tax Commissioner for the remainder of the five-year period.

(5) When an election made under section 718.80 of the Ohio Revised Code is terminated, a valid election made under section 718.86 of the Ohio Revised Code is binding upon the Tax Administrator for the remainder of the five-year period.

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

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

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

(2) No corporation filing a consolidated municipal income tax return shall make any adjustment otherwise required under division (1) of 192.03 of this Chapter to the extent that the item of income or deduction otherwise subject to

the adjustment has been eliminated or consolidated in the computation of consolidated federal taxable income.

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

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

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

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

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

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

(F) Corporations filing a consolidated municipal income tax return shall make the

computations required under Section 192.062 of this Chapter by substituting "consolidated federal taxable income attributable to" for "net profit from" wherever "net profit from" appears in that section and by substituting "affiliated group of corporations" for "Taxpayer" wherever "Taxpayer" appears in that section.

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

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

192.07 DECLARATION OF ESTIMATED TAX

(A) As used in this section:

(1) "Estimated taxes" means the amount that the Taxpayer reasonably estimates to be the Taxpayer's tax liability for the Municipality's income tax for the current Taxable Year;

(2) "Tax liability" means the total taxes due to the Municipality for the Taxable Year, after allowing any credit to which the Taxpayer is entitled, and after applying any estimated tax payment, withholding payment, or credit from another Taxable Year.

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

(a) Kettering tax withheld from Qualifying Wages shall be considered as paid to the Municipality in equal amounts on each payment date. If the Taxpayer establishes the dates on which all amounts were actually withheld, the amounts withheld shall be considered as paid on the dates on which the amounts were actually withheld;

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

(c) A Taxpayer having a Taxable Year of less than twelve months

shall make a declaration based on the estimated tax due for the short Taxable Year;

(d) Taxes withheld by a casino operator or by a lottery sales agent under section 718.031 of the Ohio Revised Code are deemed to be paid to the municipal corporation for which the taxes were withheld on the date the taxes are withheld from the Taxpayer's winnings.

(2) Taxpayers filing joint returns shall file joint declarations of estimated taxes.

(3) The declaration of estimated taxes shall be filed on or before the date prescribed for the filing of municipal income tax returns under division (G) of Section 192.091 of this Chapter or on or before the fifteenth day of the fourth month of the first Taxable Year after the Taxpayer becomes subject to tax for the first time.

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

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

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

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

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

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

(d) For an individual, On or before the fifteenth day of the twelfth-first month of the following Taxable Year, ninety per cent of the tax liability for the Taxable Year. For a person other than an individual, on or before the fifteenth day of the twelfth month of the taxable year, ninety per cent of the tax liability for the Taxable Year.

(2) A Taxpayer may amend a declaration (or any subsequent amendment thereof) at any time on or before the due date of the 4th quarterly estimated tax payment. When an amended declaration has been filed, the unpaid balance

shown due on the amended declaration shall be paid in equal installments on or before the remaining payment dates. The amended declaration must be filed on the next applicable due date as outlined in (C)(1)(a) through (d) of this section.

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

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

(b) For Taxpayers who are not individuals, and are reporting and filing on a fiscal year basis or any period other than a calendar year, the annual return is due on the fifteenth day of the fourth month following the end of the Taxable Year or period.

(4) An amended declaration is required whenever the Taxpayer's estimated tax liability changes during the Taxable Year. A change in estimated tax liability may either increase or decrease the estimated tax liability for the Taxable Year.

(D) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to section 192.10 of this Chapter upon the amount of underpayment for the period of underpayment, unless the underpayment is due to reasonable cause as described in division (E) of this section. The amount of the underpayment shall be determined as follows:

(a) For the first payment of estimated taxes each year, twenty-two and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(b) For the second payment of estimated taxes each year, forty-five per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(c) For the third payment of estimated taxes each year, sixty-seven and one-half per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment;

(d) For the fourth payment of estimated taxes each year, ninety per cent of the tax liability, less the amount of taxes paid by the date prescribed for that payment.

(2) The period of the underpayment shall run from the day the estimated payment was required to be made to the date on which the payment is made. For purposes of this section, a payment of estimated taxes on or before any payment date shall be considered a payment of any previous underpayment only to the

extent the payment of estimated taxes exceeds the amount of the payment presently required to be paid to avoid any penalty.

(E) An underpayment of any portion of tax liability determined under division (D) of this section shall be due to reasonable cause and the penalty imposed by this section shall not be added to the taxes for the Taxable Year if any of the following apply:

(1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current Taxable Year, determined by annualizing the Income received during the year up to the end of the month immediately preceding the month in which the payment is due;

(2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the Taxpayer for the preceding Taxable Year, provided that the immediately preceding Taxable Year reflected a period of twelve months and the Taxpayer filed a return with the Municipality under Section 192.091 of this Chapter for that year; or

(3) The Taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the Taxable Year.

(F) A Tax Administrator may waive the requirement for filing a declaration of estimated taxes for any class of Taxpayers after finding that the waiver is reasonable and proper in view of administrative costs and other factors.