

ORDINANCE NO. 128-24

Introduced by _____ Councilor

Seconded by _____ Councilor

Form Approved Mariah M. Cunningham Asst. Director of Law

PUBLICATION: I hereby certify that this Ordinance was published in a summary manner according to law in the Lima News on _____

Dana Addis, Clerk

VOTE	1ST		2ND		3RD	
	Y	N	Y	N	Y	N
GORDON						
WILKERSON						
THOMPSON						
EHORA						
JONES						
GLENN						
NEEPER						
DIXON						
TOTAL						

AN ORDINANCE AMENDING SECTION 880.03 OF THE CODIFIED ORDINANCES OF THE CITY OF LIMA, MUNICIPAL INCOME TAX (FOR TAXABLE YEARS BEGINNING WITH 2016 AND THEREAFTER), DEFINITIONS.

PREAMBLE: The purpose and authority of and for this ordinance are set forth as follows:

WHEREAS, House Bill 33 of the 135th General Assembly updated the Municipal Income Tax Ordinance requirements to include that “For the tax years 2024 and after, the income of individuals under 18 years of age” is included the definition of “Exempt Income” (see page 6, section 880.03(c)(11)(S)); and,

WHEREAS, Council finds that passage of this ordinance is necessary because of the immediate need for the action authorized herein to provide for the updates required under House Bill 33’s Municipal Income Tax Ordinance requirements, and in order to preserve the public peace, property, health, safety, and welfare of the community and its citizens, and to provide for the efficient and effective operation of the municipal government, and by reason thereof, this Ordinance constitutes a matter of administrative emergency and shall take effect immediately upon its passage, as set forth in Section 33 of the City Charter; Now, Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LIMA, OHIO, WITH AT LEAST A MAJORITY OF THE MEMBERS ELECTED THERETO CONCURRING:

Section 1. Section 880.03 (for taxable years beginning with 2016 and thereafter) of the Codified Ordinances of the City of Lima, Ohio is hereby amended as follows:

880.03 DEFINITIONS.

(a) Any term used in this chapter that is not otherwise defined in this chapter has the same meaning as when used in a comparable context in laws of the United States relating to Federal income taxation or in Ohio R.C. Title LVII, unless a different meaning is clearly required. If a term used in this chapter that is not otherwise defined in this chapter is used in a comparable context in both the laws of the United States relating to Federal income tax and in Ohio R.C. Title

LVII 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 Ohio R.C. Title LVII.

(b) For purposes of this section, the singular shall include the plural, and the masculine shall include the feminine and the gender-neutral.

(c) 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 (c)(23)D. of this section, means a C corporation's Federal taxable income before net operating losses and special deductions as determined under the Internal Revenue Code, adjusted as follows:

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

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

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

D. 1. Except as provided in division (c)(1)D.2. 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;

2. Division (c)(1)D.1. 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 Ohio R.C. 4313.02;

H. 1. Except as limited by divisions (c)(1)H.2., 3., and 4. 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.

2. No person shall use the deduction allowed by division (c)(1)H. of this section to offset qualifying wages.

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

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

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

5. Nothing in division (c)(1)H.3.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 (c)(1)H.3.a. of this section. To the extent that an amount of net operating loss that was not fully utilized in one or more taxable years by operation of division (c)(1)H.3.a. of this section is carried forward for use with respect to a return filed for a taxable year beginning in 2019, 2020, 2021, or 2022, the limitation described in division (c)(1)H.3.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 Section 880.063(e)(3)B.

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 Section 880.063(e)(3)B.

If the taxpayer is not a C corporation, is not a disregarded entity that has made the election described in division (c)(47)B. of this section, is not a publicly traded partnership that has made the election described in division (c)(23)D. of this section, and is not an individual, the taxpayer shall compute adjusted Federal taxable income under this section as if the taxpayer were a C corporation, except guaranteed payments and other similar amounts paid or accrued to a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deductible expense unless such payments are in consideration for the use of capital and treated as payment of interest under section 469 of the Internal Revenue Code or United States Treasury regulations. Amounts paid or accrued to a qualified self-employed retirement plan with respect to a partner, former partner, shareholder, former shareholder, member, or former member of the taxpayer, amounts paid or accrued to or for health insurance for a partner, former partner, shareholder, former shareholder, member, or former member, and amounts paid or accrued to or for life insurance for a partner, former partner, shareholder, former shareholder, member, or former member shall not be allowed as a deduction.

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

(2) A. "Assessment" means any of the following:

1. A written finding by the Tax Administrator that a person has underpaid Municipal income tax, or owes penalty and interest, or any combination of tax, penalty, or interest, to the municipal corporation;

2. A full or partial denial of a refund request issued under Section 880.096(b)(2);

3. A Tax Administrator's denial of a taxpayer's request for use of an alternative apportionment method, issued under Section 880.062(b)(2); or

4. A Tax Administrator's requirement for a taxpayer to use an alternative apportionment method, issued under Section 880.062(b)(3).

5. For purposes of division (c)(2)A.1., 2., 3., and 4., an assessment shall commence the person's time limitation for making an appeal to the Local Board of Tax Review pursuant to Section 880.18, and shall have "ASSESSMENT" written in all capital letters at the top of such finding.

B. "Assessment" does not include notice(s) denying a request for refund issued under Section 880.096(b)(3), a billing statement notifying a taxpayer of current or past-due balances owed to the municipal corporation, a Tax Administrator's request for additional information, a notification to the taxpayer of mathematical errors, or a Tax Administrator's other written correspondence to a person or taxpayer that does not meet the criteria prescribed by division (c)(2)A. of this section.

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

(4) "Board of Review" has same meaning as "Local Board of Tax Review".

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

(6) "Casino operator" and "casino facility" have the same meanings as in Ohio R.C. 3772.01.

(7) "Certified mail," "express mail," "United States mail," "postal service," and similar terms include any delivery service authorized pursuant to Ohio R.C. 5703.056.

(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. 1. Except as provided in division (c)(11)B.2. of this section, intangible income;

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

C. Social Security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, State, or Federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in division (c)(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 Ohio R.C. 3501.28 or 3501.36 to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars (\$1,000) for the taxable year. Such compensation in excess of one thousand dollars (\$1,000) for the taxable year may be subject to taxation by a municipal corporation. A municipal corporation shall not require the payer of such compensation to withhold any tax from that compensation.

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

G. Alimony and child support received.

H. 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 Ohio R.C. 5727.24 or 5727.30. Division (c)(11)I. of this section does not apply for purposes of Ohio R.C. Chapter 5745.

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

K. Compensation or allowances excluded from Federal gross income under section 107 of the Internal Revenue Code.

L. Employee compensation that is not qualifying wages as defined in division (c)(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. 1. Except as provided in divisions (c)(11)O.2., 3., and 4. of this section, qualifying wages described in Section 880.052(b)(1) or (e) to the extent the qualifying wages are not subject to withholding for the Municipality under either of those divisions.

2. The exemption provided in division (c)(11)O.1. 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.

3. The exemption provided in division (c)(11)O.1. of this section does not apply to qualifying wages that an employer elects to withhold under Section 880.052(d)(2).

4. The exemption provided in division (c)(11)O.1. of this section does not apply to qualifying wages if both of the following conditions apply:

a. For qualifying wages described in Section 880.052(b)(1), 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 Section 880.052(e), the employee's employer withholds and remits tax on the qualifying wages to the municipal corporation in which the employer's fixed location is located;

b. The employee receives a refund of the tax described in division (c)(11)O.4.a. of this section on the basis of the employee not performing services in that municipal corporation.

P. 1. Except as provided in division (c)(11)P.2. or 3. 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.

2. The exemption provided in division (c)(11)P.1. 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 (c)(11)P.2.b. of this section, "professional athlete," "professional entertainer," and "public figure" have the same meanings as in Section 880.052.

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

4. For purposes of division (c)(11)P. 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.

Q. 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 Ohio R.C. 709.023 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.

R. Income the taxation of which is prohibited by the constitution or laws of the United States.

S. For tax years 2024 and after, the income of individuals under 18 years of age.

Any item of income that is exempt income of a pass-through entity under division (c)(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. 1. For residents, all income, salaries, qualifying wages, commissions, and other compensation from whatever source earned or received by the resident, including the resident's distributive share of the net profit of pass-through entities owned directly or indirectly by the resident and any net profit of the resident, except as provided in division (c)(23)D. of this section.

2. For the purposes of division (c)(14)A.1. of this section:

a. Any net operating loss of the resident incurred in the taxable year and the resident's distributive share of any net operating loss generated in the same taxable year and attributable to the resident's ownership interest in a pass-through entity shall be allowed as a deduction, for that taxable year and the following five taxable years, against any other net profit of the resident or the resident's distributive share of any net profit attributable to the resident's ownership interest in a pass-through entity until fully utilized, subject to division (c)(14)A.4. 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.

3. Division (c)(14)A.2. 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 (c)(11)N. of this section.

4. 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 880.081.

(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 Ohio R.C. Chapter 5701, 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 Ohio R.C. Chapter 1705 or under the laws of another state.

(18) "Local Board of Tax Review" and "Board of Tax Review" means the entity created under Section 880.18.

(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 Ohio R.C. 715.691, 715.70, 715.71, or 715.74.

(20) A. "Municipal taxable income" means the following:

1. For a person other than an individual, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 880.062, and further reduced by any pre-2017 net operating loss carryforward available to the person for the Municipality.

2. a. For an individual who is a resident of a Municipality other than a qualified municipal corporation, income reduced by exempt income to the extent otherwise included in income, then reduced as provided in division (c)(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 Ohio R.C. 718.03.

3. For an individual who is a nonresident of the Municipality, income reduced by exempt income to the extent otherwise included in income and then, as applicable, apportioned or situated to the Municipality under Section 880.062, then reduced as provided in division (c)(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 (c)(20)A.2.a. or 3. of this section, the amount of the individual's employee business expenses reported on the individual's form 2106 that the individual deducted for Federal income tax purposes for the taxable year, subject to the limitation imposed by section 67 of the Internal Revenue Code. For the municipal corporation in which the taxpayer is a resident, the taxpayer may deduct all such expenses allowed for Federal income tax purposes. For a municipal corporation in which the taxpayer is not a resident, the taxpayer may deduct such expenses only to the extent the expenses are related to the taxpayer's performance of personal services in that nonresident municipal corporation.

(21) "Municipality" means the City of Lima, 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.

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 (c)(1)H. of this section.

C. For the purposes of this chapter, and notwithstanding division (c)(23)A. of this section, net profit of a disregarded entity shall not be taxable as against that disregarded entity, but shall instead be included in the net profit of the owner of the disregarded entity.

D. 1. For purposes of this chapter, "publicly traded partnership" means any partnership, an interest in which is regularly traded on an established securities market. A "publicly traded partnership" may have any number of partners.

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

3. A publicly traded partnership that is treated as a partnership for Federal income tax purposes and that is subject to tax on its net profits in one or more municipal corporations in this State may elect to be treated as a C corporation for Municipal income tax purposes. The publicly traded partnership shall make the election in every municipal corporation in which the partnership is subject to taxation on its net profits. The election shall be made on the annual tax return filed in each such municipal corporation. Once the election is made, the election is binding for a five-year period beginning with the first taxable year of the initial election. The election continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing Municipal income tax returns as a C corporation for municipal purposes under division (c)(23)D.4. of this section.

4. An election to discontinue filing as a C corporation must be made in the first year following the last year of a five-year election period in effect under division (c)(23)D.3. of this section. The election to discontinue filing as a C corporation is binding for a five-year period beginning with the first taxable year of the election and continues to be binding for each subsequent five-year period unless the taxpayer elects to discontinue filing Municipal income tax returns as a partnership for municipal purposes. An election to discontinue filing as a partnership must be made in the first year following the last year of a five-year election period.

5. The publicly traded partnership shall not be required to file the election with any municipal corporation in which the partnership is not subject to taxation on its net profits, but division (c)(23)D. of this section applies to all municipal corporations in which an individual owner of the partnership resides.

6. The individual owners of the partnership not filing as a C Corporation shall be required to file with their municipal corporation of residence, and report partnership distribution of net profit.

(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 Ohio R.C. 125.30, that allows persons to electronically file business reply forms with State agencies and includes any successor electronic filing and payment system.

(26) "Other payer" means any person, other than an individual's employer or the employer's agent, that pays an individual any amount included in the Federal gross income of the individual. "Other payer" includes casino operators and video lottery terminal sales agents.

(27) "Pass-through entity" means a partnership not treated as an association taxable as a C corporation for Federal income tax purposes, a limited liability company not treated as an association taxable as a C corporation for Federal income tax purposes, an S corporation, or any

other class of entity from which the income or profits of the entity are given pass-through treatment for Federal income tax purposes. "Pass-through entity" does not include a trust, estate, grantor of a grantor trust, or disregarded entity.

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

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

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

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

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

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

(33) "Qualified municipal corporation" means a municipal corporation that, by resolution or ordinance adopted on or before December 31, 2011, adopted Ohio adjusted gross income, as defined by Ohio R.C. 5747.01, 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:

1. 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.

2. 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.

3. Any amount included in wages that is exempt income.

B. Add the following amounts:

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

2. Any amount not included in wages because the amount arises from the sale, exchange, or other disposition of a stock option, the exercise of a stock option, or the sale, exchange, or other disposition of stock purchased under a stock option. Division (c)(34)B.2. of this section applies only to those amounts constituting ordinary income.

3. Any amount not included in wages if the amount is an amount described in section 401(k), 403(b), or 457 of the Internal Revenue Code. Division (c)(34)B.3. of this section applies only to employee contributions and employee deferrals.

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

5. 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.

6. 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 (c)(34)B. of this section or Ohio R.C. 718.03, 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 percent of the value of the taxpayer's outstanding stock;

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

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

D. The attribution rules described in section 318 of the Internal Revenue Code apply for the purpose of determining whether the ownership requirements in divisions (c)(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 880.042.

(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 (\$500,000) during the preceding taxable year. For purposes of this division, "total revenue" means receipts of any type or kind, including, but not limited to, sales receipts; payments; rents; profits; gains, dividends, and other investment income; commissions; premiums; money; property; grants; contributions; donations; gifts; program service revenue; patient service revenue; premiums; fees, including premium fees and service fees; tuition payments; unrelated business revenue; reimbursements; any type of payment from a governmental unit, including grants and other allocations; and any other similar receipts reported for Federal income tax purposes or under generally accepted accounting principles. "Small employer" does not include the Federal government; any State government, including any State agency or instrumentality; any political subdivision; or any entity treated as a government for financial accounting and reporting purposes.

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

A. A municipal corporation acting as the agent of another municipal corporation;

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

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

(45) "Tax return preparer" means any individual described in section 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15.

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

(47) A. "Taxpayer" means a person subject to a tax levied on income by a municipal corporation in accordance with this chapter. "Taxpayer" does not include a grantor trust or, except as provided in division (c)(47)B.1. of this section, a disregarded entity.

B. 1. A single member limited liability company that is a disregarded entity for Federal tax purposes may be a separate taxpayer from its single member in all Ohio municipal corporations in which it either filed as a separate taxpayer or did not file for its taxable year ending in 2003, if all of the following conditions are met:

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

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

c. Not later than December 31, 2004, the limited liability company and its single member each made an election to be treated as a separate taxpayer under division (L) of Ohio R.C. 718.01 as this section existed on December 31, 2004.

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

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

2. For purposes of division (c)(47)B.1.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 (\$400,000).

(48) "Taxpayers' rights and responsibilities" means the rights provided to taxpayers in Ohio R.C. 718.11, 718.12, 718.19, 718.23, 718.36, 718.37, 718.38, 5717.011, and 5717.03 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 Ohio R.C. Chapter 718 and resolutions, ordinances, and rules adopted by a municipal corporation for the imposition and administration of a Municipal income tax.

(49) "Video lottery terminal" has the same meaning as in Ohio R.C. 3770.21.

(50) "Video lottery terminal sales agent" means a lottery sales agent licensed under Ohio R.C. Chapter 3770 to conduct video lottery terminals on behalf of the State pursuant to Ohio R.C. 3770.21.

Section 2. Existing Section 880.03 (for taxable years beginning with 2016 and thereafter) is hereby amended as set forth above, and any previous sections or ordinances in conflict herewith are hereby repealed.

Section 3. The Auditor is authorized to take any action and to account for the activity authorized herein, as is appropriate under the circumstances of this ordinance and in accordance with City policies and procedures, or as otherwise required by law, as the Auditor may determine is appropriate. The Law Director is authorized to: determine the correct business or corporate entity necessary for any contract authorized in this ordinance; determine the correct legal description for any real property at issue in this ordinance; correct any error in any exhibit to this ordinance; correct any clear scrivener error in this ordinance and to provide a clean copy for the council clerk; all as determined appropriate by the Law Director.

Section 4. Council finds and determines that the above preamble contains specific findings by Council as part of and in support of passage of this Ordinance, and that all formal actions of this Council and any of its committees concerning and relating to the adoption of this ordinance were taken in an open meeting and that all deliberations of this Council and of any of its committees that resulted in those formal actions were in meetings held in compliance with the law.

Section 5. In passing this ordinance Council hereby intends to and hereby expressly does invoke, assert, implement, and exercise the authority of the City under the Ohio Constitution, its Home Rule authority, and its Charter authority, to the fullest extent possible. To that end, Council hereby finds and declares that the subject matter of this ordinance is a matter of local concern only, and is thereby a matter of local self-government; or if this ordinance is determined to be an exercise of the City's police power that this ordinance is not in conflict with the general laws of the State.

Therefore, it is the express intent of Council that the provisions of this ordinance shall prevail over any provisions of state law that might otherwise be applicable. This includes but is not limited to all administrative action regarding all advertising, bidding, contracting, procurement, purchasing, sales, disposition, or other manner or method which was followed or will be followed in dealing with the subject matter of this ordinance. Council hereby approves, authorizes, ratifies, and affirms all methods and procedures taken or followed (or to be taken or followed) leading to the award and execution of any contract, or purchase of goods or services, or any other action taken under authority of this ordinance or otherwise authorized herein, written or oral. Council expressly finds that the action authorized in this ordinance, and the procedures followed in carrying out the provisions or authorizations of this ordinance, including any leading to the award and execution or implementation of any contract, sale, or purchase, is authorized and passed under authority of the City's Charter, including but not limited to City Charter Sections 1 and 81, and its constitutional home rule authority, and is in the best interests of the City.

Section 6. The Clerk of the Council is authorized and directed to cause publication of this ordinance to be made in a summary manner as provided by the City Charter.

Section 7. In accordance with City Charter Section 33, this ordinance shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the first reading hereof. If it does not so pass at first reading, it shall take effect and be in force forthwith upon passage by an affirmative vote of at least two-thirds of the members elected to council at the second reading hereof. If it does not so pass at second reading then it shall take effect and be in force forthwith upon passage by an affirmative vote of at least a majority of the members elected to council at the third reading hereof. Otherwise, it shall take effect and be in force from and after the earliest period allowed by law.

Passed: _____, 2024

Jamie L. Dixon, President

Approved: _____, 2024

Sharetta T. Smith, Mayor

ATTEST: _____
Dana Addis, Clerk of Council