

NEW LEGISLATION

January 8, 2018

Temp. No.	Introduced	Committee	Description
A-1	1/8/18	Fin	A resolution authorizing the Mayor to apply for and accept financial assistance in the form of a grant or loan from the Ohio Public Works Commission for the improvement of Howe Avenue from Main Street to Buchholzer Boulevard, and declaring an emergency.
A-2	1/8/18	Fin	A resolution authorizing the Mayor to apply for and accept financial assistance in the form of a grant or loan from the Ohio Public Works Commission for replacement of an 8” water main in Bailey Road, and declaring an emergency.
A-3	1/8/18	Fin	An ordinance authorizing the Director of Finance to enter into a contract or contracts without competitive bidding with Comdoc, Inc., for the purchase of printers, copy machines, facsimile machines and appurtenances and maintenance for use in various departments, and declaring an emergency.
A-4	1/8/18	Fin	An ordinance authorizing the Director of Public Service to enter into a modification of Contract No. 7151 with Glaus, Pyle, Schomer, Burns and Dehaven, Inc. dba GPD Group, and declaring an emergency.
A-5	1/8/18	PA	An ordinance amending Chapter 164, Municipal Income Tax, to comply with state law, and declaring an emergency.
A-6	1/8/18	PA	A resolution recognizing January 21-27, 2018 as Public Education Week, and declaring an emergency.

CALENDAR

January 8, 2018

The following legislation will be up for passage at the Council Meeting on January 8, 2018.

Temp. No.	Introduced	Committee	Description
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None.

PENDING LEGISLATION

January 8, 2018

Temp. No.	Introduced	Committee	Description
B-66	9/11/17	PA	An ordinance authorizing the Mayor to enter into a lease agreement or agreements with Riverside Community Urban Redevelopment Corporation, and declaring an emergency.
B-105**	11/27/17	PZ	An ordinance approving a zoning map amendment for Parcels 02-19693, 02-20071, 02-20072, 02-20073, 02-20074, 02-20075, 02-20124 (320 Broadway East, 330 Broadway East and 405 Tallmadge) from R-5 Mixed-Density Residential to MU-5 Urban Center District, as more fully described and depicted herein, and declaring an emergency.
B-111*	12/11/17	PZ	An ordinance approving a zoning map amendment for Parcels 02-05262, 02-05624, and 02-05625, from R-5 Mixed-Density Residential to C-1 Commercial District, as more fully described and depicted herein and declaring, an emergency.

**Public Hearing 1/16/18

*Public Hearing 2/5/18

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4 CITY OF CUYAHOGA FALLS, OHIO

5
6 RESOLUTION NO. - 2018

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9 A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR
10 AND ACCEPT FINANCIAL ASSISTANCE IN THE FORM OF A
11 GRANT OR LOAN FROM THE OHIO PUBLIC WORKS
12 COMMISSION FOR THE IMPROVEMENT OF HOWE AVENUE
13 FROM MAIN STREET TO BUCHHOLZER BOULEVARD, AND
14 DECLARING AN EMERGENCY.
15

16
17 WHEREAS, the Ohio Public Works Commission (“OPWC”), through its State Capital
18 Improvement Program and Local Transportation Improvement Program, provides financial
19 assistance to political subdivisions for capital improvements to public infrastructure; and
20

21 WHEREAS, the City of Cuyahoga Falls and the State of Ohio have identified the need, plan
22 for, and propose a capital improvement to public infrastructure, to wit: PID 93819, SUM-
23 HOWE AVENUE [CR 602], improvement of Howe Avenue from Main Street to Buchholzer
24 Boulevard; and
25

26 WHEREAS, the infrastructure improvement hereinabove described is considered to be a
27 priority need for the community and is a qualified project under the OPWC program.
28

29 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls,
30 County of Summit and State of Ohio, that:
31

32 Section 1. The Mayor is hereby authorized to apply for and accept financial assistance in
33 the form of a grant or loan from the Ohio Public Commission for the purpose of supporting
34 the capital improvement consisting of removal and replacement of pavement, signage, light
35 poles, and storm sewer as needed to reconstruct the roadway from Main Street to
36 Buchholzer Boulevard, by means of the State Capital Improvement Program (SCIP) and/or
37 Local Transportation Improvement Program (LTIP) administered by the Ohio Public Works
38 Commission.
39

40 Section 2. The Mayor is hereby authorized to enter into agreements as may be necessary
41 to apply for and accept the financial assistance mentioned herein.
42

43 Section 3. The Clerk is hereby directed to prepare and transmit a certified copy of this
44 Resolution to the Ohio Public Works Commission.
45

46 Section 4. It is found and determined that all formal actions of this Council concerning
47 and relating to the adoption of this resolution were adopted in an open meeting of this
48 Council, and that all deliberations of this Council and of any of its committees that resulted

49 in such formal action, were in meetings open to the public, in compliance with all legal
50 requirements, to the extent applicable, including Chapter 107 of the Codified Ordinances.

51
52 Section 5. This resolution is hereby declared to be an emergency measure necessary for
53 the preservation of the public peace, health, safety, convenience and welfare of the City of
54 Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of
55 two thirds of the members elected or appointed to Council, it shall take effect and be in
56 force immediately upon its passage and approval by the Mayor; otherwise it shall take effect
57 and be in force at the earliest period allowed by law.

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60 Passed: _____
61 _____
62 President of Council

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64 _____
65 Clerk of Council
66

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68 Approved: _____
69 _____
70 Mayor

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72 1/8/18
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4 CITY OF CUYAHOGA FALLS, OHIO

5
6 RESOLUTION NO. - 2018
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8
9 A RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR
10 AND ACCEPT FINANCIAL ASSISTANCE IN THE FORM OF A
11 GRANT OR LOAN FROM THE OHIO PUBLIC WORKS
12 COMMISSION FOR REPLACEMENT OF AN 8” WATER MAIN IN
13 BAILEY ROAD, AND DECLARING AN EMERGENCY.
14

15
16
17 WHEREAS, the Ohio Public Works Commission (“OPWC”), through its State Capital
18 Improvement Program and Local Transportation Improvement Program, provides financial
19 assistance to political subdivisions for capital improvements to public infrastructure; and
20

21 WHEREAS, the City of Cuyahoga Falls has identified the need, plans for, and proposes a
22 capital improvement to public infrastructure, to wit: replacement of an 8” water main with
23 an 8” water main, including all necessary appurtenances, in Bailey Road between Graham
24 Road and Adams Avenue; and
25

26 WHEREAS, the infrastructure improvement hereinabove described is considered to be a
27 priority need for the community and is a qualified project under the OPWC program.
28

29 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls,
30 County of Summit and State of Ohio, that:
31

32 Section 1. The Mayor is hereby authorized to apply for and accept financial assistance in
33 the form of a grant or loan from the Ohio Public Commission for the purpose of supporting
34 the capital improvement consisting of replacement of a 8” water main with an 8” water
35 main, including all necessary appurtenances, in Bailey Road between Graham Road and
36 Adams Avenue, by means of the State Capital Improvement Program (SCIP) and/or Local
37 Transportation Improvement Program (LTIP) administered by the Ohio Public Works
38 Commission.
39

40 Section 2. The Mayor is hereby authorized to enter into agreements as may be necessary
41 to apply for and accept the financial assistance mentioned herein.
42

43 Section 3. The Clerk is hereby directed to prepare and transmit a certified copy of this
44 Resolution to the Ohio Public Works Commission.
45

46 Section 4. It is found and determined that all formal actions of this Council concerning
47 and relating to the adoption of this resolution were adopted in an open meeting of this
48 Council, and that all deliberations of this Council and of any of its committees that resulted

49 in such formal action, were in meetings open to the public, in compliance with all legal
50 requirements, to the extent applicable, including Chapter 107 of the Codified Ordinances.

51
52 Section 5. This resolution is hereby declared to be an emergency measure necessary for
53 the preservation of the public peace, health, safety, convenience and welfare of the City of
54 Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of
55 two thirds of the members elected or appointed to Council, it shall take effect and be in
56 force immediately upon its passage and approval by the Mayor; otherwise it shall take effect
57 and be in force at the earliest period allowed by law.

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60 Passed: _____
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62 President of Council

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65 Clerk of Council
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68 Approved: _____
69 _____
70 Mayor

71 1/8/18
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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO. - 2018

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7 AN ORDINANCE AUTHORIZING THE DIRECTOR OF FINANCE
8 TO ENTER INTO A CONTRACT OR CONTRACTS WITHOUT
9 COMPETITIVE BIDDING WITH COMDOC, INC., FOR THE
10 PURCHASE OF PRINTERS, COPY MACHINES, FACSIMILE
11 MACHINES AND APPURTENANCES AND MAINTENANCE FOR
12 USE IN VARIOUS DEPARTMENTS, AND DECLARING AN
13 EMERGENCY.
14

15 WHEREAS, the purchase by contract of the equipment, services, materials or supplies
16 identified herein is through participation in a contract between the vendor and the Sourcing
17 Alliance, and is thus exempt from competitive bidding requirements pursuant to Ohio Revised
18 Code §125.04.
19

20 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls, County
21 of Summit and State of Ohio, that:

22
23 Section 1. The Director of Finance is hereby authorized to enter into a contract or contracts
24 without competitive bidding with Comdoc, Inc., on the basis of its proposal dated January 2,
25 2018, for the purchase of printers, copy machines, facsimile machines and appurtenances and
26 maintenance for use in various departments.
27

28 Section 2. The Director of Finance is hereby authorized and directed to make payment for
29 same from the Information Services Fund, line item Other Operations.
30

31 Section 3. Any other ordinances and resolutions or portions of ordinances and resolutions
32 inconsistent herewith are hereby repealed, but any ordinances and resolutions or portions of
33 ordinances and resolutions not inconsistent herewith and which have not previously been
34 repealed are hereby ratified and confirmed.
35

36 Section 4. It is found and determined that all formal actions of this Council concerning and
37 relating to the adoption of this ordinance were adopted in an open meeting of this Council and
38 that all deliberations of this Council and of any of its committees that resulted in such formal
39 action were in meetings open to the public, in compliance with all legal requirements including
40 Chapter 107 of the Codified Ordinances.
41

42 Section 5. This ordinance is hereby declared to be an emergency measure necessary for the
43 preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga
44 Falls and the inhabitants thereof and provided it receives the affirmative vote of two-thirds of the
45 members elected or appointed to Council, it shall take effect and be in force immediately upon its
46 passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest
47 period allowed by law.
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50 Passed: _____

President of Council

Clerk of Council

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58 Approved: _____

Mayor

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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO. - 2018

6
7 AN ORDINANCE AUTHORIZING THE DIRECTOR OF PUBLIC
8 SERVICE TO ENTER INTO A MODIFICATION OF CONTRACT
9 NO. 7151 WITH GLAUS, PYLE, SCHOMER, BURNS AND
10 DEHAVEN, INC. DBA GPD GROUP, AND DECLARING AN
11 EMERGENCY.

12
13 WHEREAS, pursuant to the authority of Ord. No. 27-2015, the Director of Public Service
14 entered into Contract No. 7151 with Glaus, Pyle, Schomer, Burns and DeHaven, Inc. dba
15 GPD Group for professional services necessary for design engineering to upgrade substation
16 #5 (the "Project"); and

17
18 WHEREAS, due to changes in the work scope, the complexity of the Project, and delays
19 due to inclement weather, GPD Group has expended additional time and resources in
20 order to complete the Project to the City's specifications; and

21
22 WHEREAS, the total expenditure for the Substation 5 Project is anticipated to be
23 completed below the budgeted amount; and

24
25 WHEREAS, pursuant to Section 181.06 of the Codified Ordinances, the modification of
26 the contract must be approved by Council.

27
28 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga Falls,
29 County of Summit and State of Ohio, that:

30
31 Section 1. The Director of Public Service is hereby authorized to enter into a modification
32 of Contract No. 7151, with Glaus, Pyle, Schomer, Burns and DeHaven, Inc. dba GPD Group
33 in an amount not to exceed \$23,500.00. The total contract price after modification as
34 authorized herein shall not exceed \$309,500.00.

35
36 Section 2. The Director of Finance is hereby authorized and directed to make payment
37 for same from the Electric Fund, line Capital Outlay.

38
39 Section 3. Any other ordinances and resolutions or portions of ordinances and
40 resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions
41 or portions of ordinances and resolutions not inconsistent herewith and which have not
42 previously been repealed are hereby ratified and confirmed.

43
44 Section 4. It is found and determined that all formal actions of this Council concerning
45 and relating to the adoption of this ordinance were adopted in an open meeting of this
46 Council, and that all deliberations of this Council and of any of its committees that resulted
47 in such formal action, were in meetings open to the public, in compliance with all legal
48 requirements, to the extent applicable, including Chapter 107 of the Codified Ordinances.

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Section 5. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof and provided it receives the affirmative vote of two thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: _____
President of Council

Clerk of Council

Approved: _____
Mayor

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3 CITY OF CUYAHOGA FALLS, OHIO

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5 ORDINANCE NO. - 2018

6
7 AN ORDINANCE AMENDING CHAPTER 164, MUNICIPAL
8 INCOME TAX, TO COMPLY WITH STATE LAW, AND
9 DECLARING AN EMERGENCY.

10
11 WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVII,
12 Section 3, provides that "municipalities shall have authority to exercise all powers
13 of local self-government," and the municipal taxing power is one of such powers of
14 local self-government delegated by the people of the State to the people of
15 municipalities; and

16
17 WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the
18 General Assembly may restrict a municipality's power of taxation to the extent
19 necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio
20 Constitution states that "laws may be passed to limit the powers of municipalities to
21 levy taxes and incur debts for local purposes;" and

22
23 WHEREAS, the General Assembly has determined that it is necessary and
24 appropriate to amend Chapter 718 of the Ohio Revised Code, setting forth statutory
25 amendments for municipal income tax codes in Ohio; and

26
27 WHEREAS, more specifically, the General Assembly enacted H. B. 49 in June
28 2017, and mandated that municipal income tax codes be amended to repeal the
29 "throw-back rule" used in determining what amount of business' income is
30 apportioned to a particular municipal corporation and extends the due date by
31 which municipal income taxpayers that are individuals must make their fourth-
32 quarter estimated tax payment.

33
34 NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Cuyahoga
35 Falls, County of Summit, and State of Ohio, that:

36
37 Section 1. Title 7, Taxation, Chapter 164, Municipal Income Tax of the Codified
38 Ordinances of the City of Cuyahoga Falls is hereby amended as follows (new text in
39 double underline; deleted text in ~~striketrough~~):

40
41
42 **164.05 DEFINITIONS.**

43
44 Any term used in this Section that is not otherwise defined in this
45 Section has the same meaning as when used in a comparable context in the laws of
46 the United States relating to federal income taxation or in Title LVII of the Ohio
47 Revised Code, unless the context clearly requires or indicates a different meaning. If a
48 term is used in this Section and it is not defined in this Section and it is used in a
49 comparable context in both the laws of the United States relating to federal income tax
50 and in Title LVII of the Ohio Revised Code and the use is not consistent, then the use
51 of the term in the law of the United States relating to federal income tax shall control
52 over the use of the term in Title LVII of the Ohio Revised Code.

53
54 For purpose of this Chapter, the singular shall include the plural, and the
55 masculine shall include the feminine and the gender-neutral.
56

57 As used in this Chapter:
58

- 59 a) “ADJUSTED FEDERAL TAXABLE INCOME,” for a person required to file as a
60 C corporation, or for a person that has elected to be taxed as a C corporation
61 under Division (v)~~(4)~~(5)(iii) of this Section, means a C corporation's federal
62 taxable income before net operating losses and special deductions as
63 determined under the Internal Revenue Code, adjusted as follows:
64
- 65 (1) Deduct intangible income to the extent included in federal taxable
66 income. The deduction shall be allowed regardless of whether the
67 intangible income relates to assets used in a trade or business or assets
68 held for the production of income.
69
 - 70 (2) Add an amount equal to five per cent of intangible income deducted under
71 (a)(1) of this Section, but excluding that portion of intangible income
72 directly related to the sale, exchange, or other disposition of property
73 described in Section 1221 of the Internal Revenue Code;
74
 - 75 (3) Add any losses allowed as a deduction in the computation of federal
76 taxable income if the losses directly relate to the sale, exchange, or other
77 disposition of an asset described in Section 1221 or 1231 of the Internal
78 Revenue Code;
79
 - 80 (4) i. Except as provided in Division (a)(4)(ii) of this Section, deduct
81 income and gain included in federal taxable income to the extent
82 the income and gain directly relate to the sale, exchange, or other
83 disposition of an asset described in Section 1221 or 1231 of the
84 Internal Revenue Code;
85
86 ii. Division (a)(4)(i) of this Section does not apply to the extent the
87 income or gain is income or gain described in Section 1245 or 1250
88 of the Internal Revenue Code.
89
 - 90 (5) Add taxes on or measured by net income allowed as a deduction in the
91 computation of federal taxable income;
92
 - 93 (6) In the case of a real estate investment trust or regulated investment
94 company, add all amounts with respect to dividends to, distributions to,
95 or amounts set aside for or credited to the benefit of investors and allowed
96 as a deduction in the computation of federal taxable income;
97
 - 98 (7) Deduct, to the extent not otherwise deducted or excluded in computing
99 federal taxable income, any income derived from a transfer agreement or
100 from the enterprise transferred under that agreement under Section
101 4313.02 of the Ohio Revised Code;
102

- 103 (8) i. ~~Except as limited by Divisions (a)(8)(ii), (iii) and (iv) of this Section,~~
104 ~~deduct any net operating loss incurred by the person in a taxable~~
105 ~~year beginning on or after January 1, 2017. The amount of such~~
106 ~~net operating loss shall be deducted from net profit that is reduced~~
107 ~~by exempt income to the extent necessary to reduce municipal~~
108 ~~taxable income to zero, with any remaining unused portion of the~~
109 ~~net operating loss carried forward to not more than five consecutive~~
110 ~~taxable years following the taxable year in which the loss was~~
111 ~~incurred, but in no case for more years than necessary for the~~
112 ~~deduction to be fully utilized.~~
113
114 ii. ~~No person shall use the deduction allowed by (a)(8) of this Section~~
115 ~~to offset qualifying wages.~~
116
117 iii. ~~For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a~~
118 ~~person may not deduct more than fifty per cent of the amount of~~
119 ~~the deduction otherwise allowed by Division (a)(8)(i) of this Section.~~
120
121 iv. ~~For taxable years beginning in 2023 or thereafter, a person may~~
122 ~~deduct the full amount allowed by Division (a)(8)(i) of this Section.~~
123
124 v. ~~Any pre 2017 net operating loss carryforward deduction that is~~
125 ~~available must be utilized before a taxpayer may deduct any~~
126 ~~amount pursuant to Division (a)(8)(i) of this Section.~~
127
128 vi. ~~Nothing in Division (a)(8)(iii) of this Section precludes a person from~~
129 ~~carrying forward, for use with respect to any return filed for a~~
130 ~~taxable year beginning after 2018, any amount of net operating~~
131 ~~loss that was not fully utilized by operation of Division (a)(8)(iii) of~~
132 ~~this Section. To the extent that an amount of net operating loss~~
133 ~~that was not fully utilized in one or more taxable years by operation~~
134 ~~of Division (a)(8)(iii) of this Section is carried forward for use with~~
135 ~~respect to a return filed for a taxable year beginning in 2019, 2020,~~
136 ~~2021, or 2022, the limitation described in Division (a)(8)(iii) of this~~
137 ~~Section shall apply to the amount carried forward. Deduct exempt~~
138 ~~income to the extent not otherwise deducted or excluded in~~
139 ~~computing adjusted federal taxable income.~~
140
141 (9) Deduct any net profit of a pass-through entity owned directly or indirectly
142 by the taxpayer and included in the taxpayer's federal taxable income
143 unless an affiliated group of corporations includes that net profit in the
144 group's federal taxable income in accordance with Section 164.09(e)(3)(ii)
145 of this Chapter.
146
147 (10) Add any loss incurred by a pass-through entity owned directly or
148 indirectly by the taxpayer and included in the taxpayer's federal taxable
149 income unless an affiliated group of corporations includes that loss in the
150 group's federal taxable income in accordance with Section 164.09(e)(3)(ii)
151 of this Chapter.
152

153 If the taxpayer is not a C corporation, is not a disregarded entity that has made
154 an election described in Division (uu)(1) of this Section, is not a publicly traded
155 partnership that has made the election described in Division (v)(4)(5)(iii) of this
156 Section, and is not an individual, the taxpayer shall compute adjusted federal taxable
157 income under this Section as if the taxpayer were a C corporation, except guaranteed
158 payments and other similar amounts paid or accrued to a partner, former partner,
159 shareholder, former shareholder, member, or former member shall not be allowed as a
160 deductible expense unless such payments are in consideration for the use of capital
161 and treated as payment of interest under Section 469 of the Internal Revenue Code or
162 United States treasury regulations. Amounts paid or accrued to a qualified self-
163 employed retirement plan with respect to a partner, former partner, shareholder,
164 former shareholder, member, or former member of the taxpayer, amounts paid or
165 accrued to or for health insurance for a partner, former partner, shareholder, former
166 shareholder, member, or former member, and amounts paid or accrued to or for life
167 insurance for a partner, former partner, shareholder, former shareholder, member, or
168 former member shall not be allowed as a deduction.

169
170 Division (a) of this Section does not allow and shall not be construed as
171 allowing the taxpayer to add or deduct any amount more than once or to deduct any
172 amount paid to or accrued for purposes of federal self-employment tax.

- 173
174 b) (1) "ASSESSMENT" means a written finding by the Tax Administrator that a
175 person has underpaid municipal income tax, or owes penalty and
176 interest, or any combination of tax, penalty, or interest to the municipal
177 corporation that commences the person's time limitation for making an
178 appeal to the Board of Tax Review pursuant to Section 164.32, and has
179 "ASSESSMENT" written in all capital letters at the top of such finding.
180
181 (2) "ASSESSMENT" does not include a notice denying a request for refund
182 issued under Division 164.19(b)(3) a billing statement notifying a taxpayer
183 of current or past-due balances owed to the municipality, a request for
184 additional information from the Tax Administrator, a notification to the
185 taxpayer of mathematical errors, or the Tax Administrator's other written
186 correspondence to a person or taxpayer that does not meet the criteria
187 prescribed by Division (b)(1) of this Section.
188
189 c) "AUDIT" means the examination of a person or the inspection of the books,
190 records, memoranda, or accounts of a person, ordered to appear before the
191 Tax Administrator, for the purpose of determining liability for a municipal
192 income tax.
193
194 d) "CALENDAR QUARTER" means the three-month period ending on the last day
195 of March, June, September, or December.
196
197 e) "CERTIFIED MAIL," "EXPRESS MAIL," "UNITED STATES MAIL," "POSTAL
198 SERVICE," and similar terms include any delivery service authorized
199 pursuant to Section 5703.056 of the Ohio Revised Code.
200
201 f) "DISREGARDED ENTITY" means a single member limited liability company, a
202 qualifying subchapter S subsidiary, or another entity if the company,
203 subsidiary, or entity is a disregarded entity for federal income tax purposes.

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- g) "DOMICILE" means the true, fixed and permanent home of the taxpayer to which, whenever absent, the taxpayer intends to return. Domicile differs from residency. Although a person may have multiple residences, a person can have only one domicile.
- h) "EMPLOYEE" means an individual who is an employee for federal income tax purposes.
- i) "EMPLOYER" means a person that is an employer for federal income tax purposes.
- j) "EXEMPT INCOME" means all of the following:
 - (1) The military pay or allowances of members of the armed forces of the United States or members of their reserve components, including the national guard of any state;
 - (2) Intangible Income;
 - (3) Social security benefits, railroad retirement benefits, unemployment compensation, pensions, retirement benefit payments, payments from annuities, and similar payments made to an employee or to the beneficiary of an employee under a retirement program or plan, disability payments received from private industry or local, state, or federal governments or from charitable, religious or educational organizations, and the proceeds of sickness, accident, or liability insurance policies. As used in Division (j)(3) of this Section, "unemployment compensation" does not include supplemental unemployment compensation described in Section 3402(o)(2) of the Internal Revenue Code.
 - (4) The income of religious, fraternal, charitable, scientific, literary, or educational institutions to the extent such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.
 - (5) Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official to the extent that such compensation does not exceed one thousand dollars for the taxable year. Such compensation in excess of one thousand dollars for the taxable year will be subject to taxation. The payer of such compensation is not required to withhold any tax from that compensation.
 - (6) Dues, contributions, and similar payments received by charitable, religious, educational, literary organizations or labor unions, lodges, and similar organizations;
 - (7) Alimony and child support received;

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- (8) Awards for personal injuries or for damages to property from insurance proceeds or otherwise, excluding compensation paid for lost salaries or wages or awards for punitive damages;
 - (9) Income of a public utility when that public utility is subject to the tax levied under Section 5727.24 or 5727.30 of the Ohio Revised Code. Division (j)(9) of this Section does not apply for purposes of Chapter 5745 of the Ohio Revised Code.
 - (10) Gains from involuntary conversions, interest on federal obligations, items of income subject to a tax levied by the state and that a municipal corporation is specifically prohibited by law from taxing, and income of a decedent's estate during the period of administration except such income from the operation of a trade or business;
 - (11) Compensation or allowances for the rental value of parsonages excluded from federal gross income under Section 107 of the Internal Revenue Code;
 - (12) Employee compensation that is not qualifying wages as defined in Division (hh) of this Section;
 - (13) Compensation paid to a person employed within the boundaries of a United States air force base under the jurisdiction of the United States air force that is used for the housing of members of the United States air force and is a center for air force operations, unless the person is subject to taxation because of residence or domicile. If the compensation is subject to taxation because of residence or domicile in the City, tax on such income shall be payable to the City.
 - (14) All of the municipal taxable income earned by individuals while they are under eighteen years of age.
 - (15)
 - i. Except as provided in Divisions (j)(15)(ii), (iii), and (iv) of this Section, qualifying wages described in Division 164.11(b)(1) or (e) of this Chapter to the extent the qualifying wages are not subject to withholding for the City under either of those Divisions.
 - ii. The exemption provided in Division (j)(15)(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 (j)(15)(i) of this Section does not apply to qualifying wages that an employer elects to withhold under Section 164.11(d)(2) of this Chapter.
 - iv. The exemption provided in Division (j)(15)(i) of this Section does not apply to qualifying wages if both of the following conditions apply:

- 303 a) For qualifying wages described in Section 164.11(b)(1) , the
304 employee's employer withholds and remits tax on the
305 qualifying wages to the municipal corporation in which the
306 employee's principal place of work is situated, or, for
307 qualifying wages described in Section 164.11(e), the
308 employee's employer withholds and remits tax on the
309 qualifying wages to the municipal corporation in which the
310 employer's fixed location is located;
- 311
- 312 b) The employee receives a refund of the tax described in
313 Division (j)(15)(iv)(a) of this Section on the basis of the
314 employee not performing services in that municipal
315 corporation.
- 316
- 317 (16) i. Except as provided in Division (j)(16)(ii) or (iii) of this Section,
318 compensation that is not qualifying wages paid to a nonresident
319 individual for personal services performed in the City on not more
320 than 20 days in a taxable year.
- 321
- 322 ii. The exemption provided in Division (j)(16)(i) of this Section does not
323 apply under either of the following circumstances:
- 324
- 325 a) The individual's base of operation is located in the
326 municipal corporation.
- 327
- 328 b) The individual is a professional athlete, professional
329 entertainer, or public figure, and the compensation is paid
330 for the performance of services in the individual's capacity
331 as a professional athlete, professional entertainer, or public
332 figure. For purposes of Division (j)(16)(ii)(b) of this Section,
333 "professional athlete," "professional entertainer," and
334 "public figure" have the same meanings as in Section
335 164.11 of this Chapter.
- 336
- 337 iii. Compensation to which Division (j)(16)(i) of this Section applies
338 shall be treated as earned or received at the individual's base of
339 operation. If the individual does not have a base of operation, the
340 compensation shall be treated as earned or received where the
341 individual is domiciled.
- 342
- 343 iv. For purposes of Division (j)(16)(i) of this Section, "base of operation"
344 means the location where an individual owns or rents an office,
345 storefront, or similar facility to which the individual regularly
346 reports and at which the individual regularly performs personal
347 services for compensation.
- 348
- 349 (17) Compensation paid to a person for personal services performed for a
350 political subdivision on property owned by the political subdivision,
351 regardless of whether the compensation is received by an employee of the
352 subdivision or another person performing services for the subdivision
353 under a contract with the subdivision, if the property on which services

354 are performed is annexed to a municipal corporation pursuant to Section
355 709.023 of the Ohio Revised Code on or after March 27, 2013, unless the
356 person is subject to such taxation because of residence. If the
357 compensation is subject to taxation because of residence, municipal
358 income tax shall be payable only to the municipal corporation of
359 residence.

360
361 (18) Income that the constitution or laws of the United States prohibit from
362 being taxed.

363
364 k) "FORM 2106" means Internal Revenue Service form 2106 filed by a taxpayer
365 pursuant to the Internal Revenue Code.

366
367 l) "GENERIC FORM" means an electronic or paper form that is not prescribed by
368 a particular municipal corporation and that is designed for reporting taxes
369 withheld by an employer, agent of an employer, or other payer, estimated
370 municipal income taxes, or annual municipal income tax liability or for filing a
371 refund claim.

372
373 m) "INCOME" means the following:

374
375 (1) i. For residents, all income, salaries, qualifying wages, commissions,
376 and other compensation from whatever source earned or received
377 by the resident, including the resident's distributive share of the
378 net profit of pass-through entities owned directly or indirectly by
379 the resident and any net profit of the resident, except as provided
380 in (v)(4)(5) of this Division.

381
382 ii. For the purposes of Division (m)(1)(i) of this Section:

383
384 a) Any net operating loss of the resident incurred in the
385 taxable year and the resident's distributive share of any net
386 operating loss generated in the same taxable year and
387 attributable to the resident's ownership interest in a pass-
388 through entity shall be allowed as a deduction, for that
389 taxable year and the following five taxable years, against
390 any other net profit of the resident or the resident's
391 distributive share of any net profit attributable to the
392 resident's ownership interest in a pass-through entity until
393 fully utilized, subject to Division (m)(1)(iv) of this Section;

394
395 b) The resident's distributive share of the net profit of each
396 pass-through entity owned directly or indirectly by the
397 resident shall be calculated without regard to any net
398 operating loss that is carried forward by that entity from a
399 prior taxable year and applied to reduce the entity's net
400 profit for the current taxable year.

401
402 iii. Division (m)(1)(ii) of this Section does not apply with respect to any
403 net profit or net operating loss attributable to an ownership
404 interest in an S corporation unless shareholders' shares of net

405 profits from S corporations are subject to tax in the municipal
406 corporation as provided in Division (m)(5) of this Section.

407
408 iv. Any amount of a net operating loss used to reduce a taxpayer's net
409 profit for a taxable year shall reduce the amount of net operating
410 loss that may be carried forward to any subsequent year for use
411 by that taxpayer. In no event shall the cumulative deductions for
412 all taxable years with respect to a taxpayer's net operating loss
413 exceed the original amount of that net operating loss available to
414 that taxpayer.
415

416 (2) In the case of nonresidents, all income, salaries, qualifying wages,
417 commissions, and other compensation from whatever source earned or
418 received by the nonresident for work done, services performed or rendered,
419 or activities conducted in the municipal corporation, including any net
420 profit of the nonresident, but excluding the nonresident's distributive
421 share of the net profit or loss of only pass-through entities owned directly
422 or indirectly by the nonresident.
423

424 (3) For taxpayers that are not individuals, net profit of the taxpayer.
425

426 (4) Lottery, sweepstakes, gambling and sports winnings, winnings from games
427 of chance, prizes and awards. If the taxpayer is a professional gambler for
428 federal income tax purposes, the taxpayer may deduct related wagering
429 losses and expenses to the extent authorized under the Internal Revenue
430 Code and claimed against such winnings.
431

432 (5) In accordance with a ballot issue, regarding S corporation language,
433 approved by the voters in the election on November 2, 2004, a
434 shareholder's share of net profits of an S corporation are taxable to the
435 municipality to the extent such shares would be so allocated or
436 apportioned to the State of Ohio.
437

438 n) "INTANGIBLE INCOME" means income of any of the following types: income
439 yield, interest, capital gains, dividends, or other income arising from the
440 ownership, sale, exchange, or other disposition of intangible property
441 including, but not limited to, investments, deposits, money, or credits as
442 those terms are defined in Chapter 5701 of the Ohio Revised Code, and
443 patents, copyrights, trademarks, trade names, investments in real estate
444 investment trusts, investments in regulated investment companies, and
445 appreciation on deferred compensation. "Intangible income" does not include
446 prizes, awards, or other income associated with any lottery winnings,
447 gambling winnings, or other similar games of chance.
448

449 o) "INTERNAL REVENUE CODE" means the "Internal Revenue Code of 1986,"
450 100 Sta. 2085, 26 U.S.C.A. 1, as amended.
451

452 p) "LIMITED LIABILITY COMPANY" means a limited liability company formed
453 under Chapter 1705 of the Ohio Revised Code or under the laws of another
454 state.
455

456 q) "LOCAL BOARD OF TAX REVIEW" means the entity created under Section
457 164.32 of this Chapter.

458
459 r) "MUNICIPAL CORPORATION" means, in general terms a status conferred upon
460 a local government unit, by state law giving the unit certain autonomous
461 operating authority such as the power of taxation, power of eminent domain,
462 police power and regulatory power, and includes a joint economic
463 development district or joint economic development zone that levies an income
464 tax or net profit tax under Sections 715.691, 715.70, 715.71, or 715.74 of the
465 Ohio Revised Code. The City of Cuyahoga Falls is a municipal corporation for
466 purposes of this Chapter.

467
468 s) (1) "MUNICIPAL TAXABLE INCOME" means the following:

469
470 i. For a person other than an individual, income reduced by exempt
471 income to the extent otherwise included in income and then, as
472 applicable, apportioned or sitused to the municipality under
473 Section 164.08, and further reduced by any pre-2017 net operating
474 loss carryforward available to the person for the municipality.

475
476 ii. For an individual who is a resident of the municipality, income
477 reduced by exempt income to the extent otherwise included in
478 income, then reduced as provided in Division (s)(2) of this Section,
479 and further reduced by any pre-2017 net operating loss
480 carryforward available to the individual for the municipality.

481
482 iii. For an individual who is a nonresident of the municipality, income
483 reduced by exempt income to the extent otherwise included in
484 income and then, as applicable, apportioned or sitused to the
485 municipality under Section 164.08 of this Chapter, then reduced
486 as provided in Division (s)(2) of this Section, and further reduced by
487 any pre-2017 net operating loss carryforward available to the
488 individual for the City.

489
490 (2) In computing the municipal taxable income of a taxpayer who is an
491 individual, the taxpayer may subtract, as provided in Division (s)(1)(ii) or
492 (s)(1)(iii) of this Section, the amount of the individual's employee business
493 expenses reported on the individual's form 2106 that the individual
494 deducted for federal income tax purposes for the taxable year, subject to
495 the limitation imposed by Section 67 of the Internal Revenue Code. For
496 the municipal corporation in which the taxpayer is a resident, the
497 taxpayer may deduct all such expenses allowed for federal income tax
498 purposes, but to the extent the expenses do not relate to exempt income.
499 For a municipal corporation in which the taxpayer is not a resident, the
500 taxpayer may deduct such expenses only to the extent the expenses are
501 related to the taxpayer's performance of personal services in that
502 nonresident municipal corporation and are not related to exempt income.

503
504 t) "MUNICIPALITY" means the City of Cuyahoga Falls, and includes any joint
505 economic development district or joint economic development zone that levies
506 an income tax or net profit tax under Sections 718.691, 715.70, 715.71, or

715.74 of the Ohio Revised Code or within which the City levies an income tax or net profit tax pursuant to said Sections of the Ohio Revised Code, including but not limited to the Boston Township-Cuyahoga Falls Joint Economic Development District.

u) "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.

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

~~(2)~~—"NET PROFIT" for a person who is an individual means the individual's net profit required to be reported on schedule C, schedule E, or schedule F reduced by any net operating loss carried forward. For the purposes of Division (v)(1) of this Section, the net operating loss carried forward shall be calculated and deducted in the same manner as provided in Division ~~(a)(8)~~ (v)(3) of this Section.

~~(3)~~ (2) "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 (v)(3) of this section.

(4) (3) 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 (v)(3)(i) of this section to offset qualifying wages.

iii. For taxable years beginning in 2018, 2019, 2020, 2021, or 2022, a person may not deduct, more than fifty per cent of the amount of the deduction otherwise allowed by division (v)(3)(i) of this section.

iv. For taxable years beginning in 2023 or thereafter, a person may deduct, the full amount allowed by division (v)(3)(i) of this section without regard to the limitation of division (v)(3)(iii) of this section.

v. Any pre-2017 net operating loss carryforward deduction that is available may be utilized before a taxpayer may deduct any amount pursuant to division (v)(3) of this section.

557 vi. Nothing in division (v)(3)(iii) of this section precludes a person
558 from carrying forward, for use with respect to any return filed for a
559 taxable year beginning after 2018, any amount of net operating
560 loss that was not fully utilized by operation of division (v)(3)(iii) of
561 this section. To the extent that an amount of net operating loss
562 that was not fully utilized in one or more taxable years by
563 operation of division (v)(3)(iii) of this section is carried forward for
564 use with respect to a return filed for a taxable year beginning in
565 2019, 2020, 2021, or 2022, the limitation described in division
566 (v)(3)(iii) of this section shall apply to the amount carried forward.
567
568

569 (4) For the purposes of this Chapter, and notwithstanding Division (v)(4)(2)
570 of this Section, net profit of a disregarded entity shall not be taxable as
571 against that disregarded entity, but shall instead be included in the net
572 profit of the owner of the disregarded entity.
573

574 (5) i. For purposes of this Chapter, “publicly traded partnership” means
575 any partnership, an interest in which is regularly traded on an
576 established securities market. A “publicly traded partnership” may
577 have any number of partners.
578

579 ii. For the purposes of this Chapter, and notwithstanding any other
580 provision of this Chapter, the net profit of a publicly traded
581 partnership that makes the election described in Division
582 (v)(4)(5)(iii) of this Section shall be taxed as if the partnership were
583 a C corporation, and shall not be treated as the net profit or
584 income of any owner of the partnership.
585

586 iii. A publicly traded partnership that is treated as a partnership for
587 federal income tax purposes, and that is subject to tax on its net
588 profits by the municipality, may elect to be treated as a C
589 corporation. The election shall be made on the annual return for
590 the municipality. The municipality will treat the publicly traded
591 partnership as a C corporation if the election is so made.
592

593 iv. The individual owners of the partnership not filing as a C
594 corporation are required to file with their municipal corporation of
595 residence, and report partnership distribution of net profit.
596

597 w) “NONRESIDENT” means an individual that is not a resident of the City of
598 Cuyahoga Falls.
599

600 x) “OHIO BUSINESS GATEWAY” means the online computer network system,
601 created under Section 125.30 of the Ohio Revised Code, that allows
602 businesses to electronically file business reply forms with state agencies and
603 includes any successor electronic filing and payment system.
604

605 y) “OTHER COMPENSATION” “all forms of earned income including but not
606 limited to tips, tax shelter plans, gifts of any type for services rendered,
607 vacation and holiday pay, wage continuation benefits, director’s fees, jury

608 duty fees, stock options granted in connection with the performance of service
609 and not designated as capital gains, property in lieu of cash, sick pay,
610 bonuses, incentive payments in whatever form, company closing benefits,
611 earnings designated as deferred compensation or compensation paid by an
612 employer in whatever form for services rendered, employer paid premiums for
613 group-term insurance in excess of fifty thousand dollars (\$50,000), strike
614 benefits, depreciation recapture, ordinary income shown on the federal form
615 4797, and a resident partner's or stockholder's distributive share of a
616 nonresident partnership or S-corporation net profits. If income appears as
617 part of Medicare wages on a W-2 form and is not shown to be an exception in
618 accordance with Section 164.05(j) it shall be considered other compensation
619 and is therefore taxable to the individual.
620

621 z) "OTHER PAYER" means any person, other than an individual's employer or the
622 employer's agent that pays an individual any amount included in the federal
623 gross income of the individual. "Other payer" includes casino operators and
624 video lottery terminal sales agents.
625

626 aa) "PASS-THROUGH ENTITY" means a partnership not treated as an association
627 taxable as a C corporation for federal income tax purposes, a limited liability
628 company not treated as an association taxable as a C corporation for federal
629 income tax purposes, an S corporation, or any other class of entity from which
630 the income or profits of the entity are given pass-through treatment for federal
631 income tax purposes. "Pass-through entity" does not include a trust, estate,
632 grantor of a grantor trust, or disregarded entity.
633

634 bb) "PENSION" means any amount paid to an employee or former employee that is
635 reported to the recipient on an IRS form 1099-R, or successor form. Pension
636 does not include deferred compensation, or amounts attributable to
637 nonqualified deferred compensation plans, reported as FICA/Medicare wages
638 on an IRS form W-2, Wage and Tax Statement, or successor form.
639

640 cc) "PERSON" includes individuals, firms, companies, joint stock companies,
641 business trusts, estates, trusts, partnerships, limited liability partnerships,
642 limited liability companies, associations, C corporations, S corporations,
643 governmental entities, and any other entity.
644

645 dd) "POSTAL SERVICE" means the United States postal service, or private delivery
646 service delivering documents and packages within an agreed upon delivery
647 schedule, or any other carrier service delivering the item.
648

649 ee) "POSTMARK DATE," "DATE OF POSTMARK," and similar terms include the
650 date recorded and marked by a delivery service and recorded electronically to
651 a database kept in the regular course of its business and marked on the cover
652 in which the payment or document is enclosed.
653

654 ff) "PRE-2017 NET OPERATING LOSS CARRYFORWARD" means any net
655 operating loss incurred in a taxable year beginning before January 1, 2017, to
656 the extent such loss was permitted, by 161.03(c)(1) through (3) to be carried
657 forward and utilized to offset income or net profit generated in the
658 municipality in future taxable years. For the purpose of calculating municipal

659 taxable income, any pre-2017 net operating loss carryforward may be carried
660 forward to any taxable year, including taxable years beginning in 2017 or
661 thereafter, for the number of taxable years provided in the ordinance or until
662 fully utilized, whichever is earlier.

663
664 gg) "PUBLICLY TRADED PARTNERSHIP" means any partnership, an interest in
665 which is regularly traded on an established securities market. A "publicly
666 traded partnership" may have any number of partners.

667
668 hh) "QUALIFYING WAGES" means wages, as defined in Section 3121(a) of the
669 Internal Revenue Code, without regard to any wage limitations, adjusted as
670 follows:

671
672 (1) Deduct the following amounts:

673
674 i. Any amount included in wages if the amount constitutes
675 compensation attributable to a plan or program described in
676 Section 125 of the Internal Revenue Code.

677
678 ii. Any amount included in wages if the amount constitutes payment
679 on account of a disability related to sickness or an accident paid by
680 a party unrelated to the employer, agent of an employer, or other
681 payer.

682
683 iii. Any amount included in wages that is exempt income.

684
685 (2) Add the following amounts:

686
687 i. Any amount not included in wages solely because the employee
688 was employed by the employer before April 1, 1986.

689
690 ii. Any amount not included in wages because the amount arises from
691 the sale, exchange, or other disposition of a stock option, the
692 exercise of a stock option, or the sale, exchange, or other
693 disposition of stock purchased under a stock option and the
694 municipal corporation has not exempted the amount from
695 withholding and tax adopted before January 1, 2016. Division
696 (hh)(2)(ii) of this Section applies only to those amounts constituting
697 ordinary income.

698
699 iii. Any amount not included in wages if the amount is an amount
700 described in Sections 401(k), 403(b), or 457 of the Internal Revenue
701 Code. Division (hh)(2)(iii) of this Section applies only to employee
702 contributions and employee deferrals.

703
704 iv. Any amount that is supplemental unemployment compensation
705 benefits described in Section 3402(o)(2) of the Internal Revenue
706 Code and not included in wages.

707

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

711
712 vi. Any amount not included in wages if all of the following apply:
713

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

721
722 b) For no preceding taxable year did the amount constitute
723 wages as defined in Section 3121(a) of the Internal Revenue
724 Code;

725
726 c) For any taxable year the amount has not otherwise been
727 added to wages pursuant to either Division (hh)(2) of this
728 Section or Section 718.03 of the Ohio Revised Code, as that
729 Section existed before the effective date of H.B. 5 of the
730 130th General Assembly, March 23, 2015.

731
732 ii) "RELATED ENTITY"

733
734 (1) An individual stockholder, or a member of the stockholder's family
735 enumerated in Section 318 of the Internal Revenue Code, if the
736 stockholder and the members of the stockholder's family own directly,
737 indirectly, beneficially, or constructively, in the aggregate, at least fifty per
738 cent of the value of the taxpayer's outstanding stock;

739
740 (2) A stockholder, or a stockholder's partnership, estate, trust, or
741 corporation, if the stockholder and the stockholder's partnerships,
742 estates, trusts, or corporations own directly, indirectly, beneficially, or
743 constructively, in the aggregate, at least fifty per cent of the value of the
744 taxpayer's outstanding stock;

745
746 (3) A corporation, or a party related to the corporation in a manner that
747 would require an attribution of stock from the corporation to the party or
748 from the party to the corporation under Division (ii)(4) of this Section,
749 provided the taxpayer owns directly, indirectly, beneficially, or
750 constructively, at least fifty per cent of the value of the corporation's
751 outstanding stock;

752
753 (4) The attribution rules described in Section 318 of the Internal Revenue
754 Code apply for the purpose of determining whether the ownership
755 requirements in Divisions (ii)(1) to (3) of this Section have been met.

756
757 jj) "RELATED MEMBER" means a person that, with respect to the taxpayer
758 during all or any portion of the taxable year, is either a related entity, a

759 component member as defined in Section 1563(b) of the Internal Revenue
760 Code, or a person to or from whom there is attribution of stock ownership in
761 accordance with Section 1563(e) of the Internal Revenue Code except, for
762 purposes of determining whether a person is a related member under this
763 Division, “twenty per cent” shall be substituted for “5 percent” wherever “5
764 percent” appears in Section 1563(e) of the Internal Revenue Code.
765

766 kk) “RESIDENT” means an individual who is domiciled in the Municipality as
767 determined under Section 164.20 of this Chapter.
768

769 ll) “S CORPORATION” means a person that has made an election under
770 subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its
771 taxable year
772

773 mm) “SCHEDULE C” means internal revenue service schedule C (form 1040) filed
774 by a taxpayer pursuant to the Internal Revenue Code.
775

776 nn) “SCHEDULE E” means internal revenue service schedule E (form 1040) filed
777 by a taxpayer pursuant to the Internal Revenue Code.
778

779 oo) “SCHEDULE F” means internal revenue service schedule F (form 1040) filed
780 by a taxpayer pursuant to the Internal Revenue Code.
781

782 pp) “SINGLE MEMBER LIMITED LIABILITY COMPANY” means a limited liability
783 company that has one direct member.
784

785 qq) “SMALL EMPLOYER” means any employer that had total revenue of less than
786 five hundred thousand dollars during the preceding taxable year. For
787 purposes of this Division, “total revenue” means receipts of any type or kind,
788 including, but not limited to, sales receipts; payments; rents; profits; gains,
789 dividends, and other investment income; commissions; premiums; money;
790 property; grants; contributions; donations; gifts; program service revenue;
791 patient service revenue; premiums; fees, including premium fees and service
792 fees; tuition payments; unrelated business revenue; reimbursements; any
793 type of payment from a governmental unit, including grants and other
794 allocations; and any other similar receipts reported for federal income tax
795 purposes or under generally accepted accounting principles. “Small employer”
796 does not include the federal government; any state government, including any
797 state agency or instrumentality; any political subdivision; or any entity treated
798 as a government for financial accounting and reporting purposes.
799

800 rr) “TAX ADMINISTRATOR” means the individual charged with direct
801 responsibility for administration of an income tax levied by a municipal
802 corporation in accordance with this Chapter
803

804 ss) “TAX RETURN PREPARER” means any individual described in Section
805 7701(a)(36) of the Internal Revenue Code and 26 C.F.R. 301.7701-15 .
806

807 tt) “TAXABLE YEAR” means the corresponding tax reporting period as prescribed
808 for the taxpayer under the Internal Revenue Code.
809

810 uu) "TAXPAYER" means a person subject to a tax levied on income by a
811 municipal corporation in accordance with this Chapter. "Taxpayer" does not
812 include a grantor trust or, except as provided in Division (uu)(1) of this
813 Section, a disregarded entity.
814

815 (1) A single member limited liability company that is a disregarded
816 entity for federal tax purposes may be a separate taxpayer from its single
817 member in all Ohio municipal corporations in which it either filed as a
818 separate taxpayer or did not file for its taxable year ending in 2003, if all
819 of the following conditions are met:
820

- 821 i. The limited liability company's single member is also a limited
822 liability company.
823
- 824 ii. The limited liability company and its single member were
825 formed and doing business in one or more Ohio municipal
826 corporations for at least five years before January 1, 2004.
827
- 828 iii. Not later than December 31, 2004, the limited liability
829 company and its single member each made an election to be
830 treated as a separate taxpayer under Division (L) of Section
831 718.01 of the Ohio Revised Code as this Section existed on
832 December 31, 2004.
833
- 834 iv. The limited liability company was not formed for the purpose of
835 evading or reducing Ohio municipal corporation income tax
836 liability of the limited liability company or its single member.
837
- 838 v. The Ohio municipal corporation that was the primary place of
839 business of the sole member of the limited liability company
840 consented to the election.
841

842 (2) For purposes of Division (uu)(1)(v) of this Section, a municipal
843 corporation was the primary place of business of a limited liability company if,
844 for the limited liability company's taxable year ending in 2003, its income tax
845 liability was greater in that municipal corporation than in any other municipal
846 corporation in Ohio, and the tax liability to that municipal corporation for its
847 taxable year ending in 2003 was at least four hundred thousand dollars.
848

849 vv) "TAXPAYERS' RIGHTS AND RESPONSIBILITIES" means the rights provided to
850 taxpayers in Sections 718.11, 718.12, 718.19, 718.23, 718.36, 718.37,
851 718.38, 5717.011, and 5717.03 of the Ohio Revised Code and any
852 corresponding ordinances of the Municipality, and the responsibilities of
853 taxpayers to file, report, withhold, remit, and pay municipal income tax and
854 otherwise comply with Chapter 718 of the Ohio Revised Code, ordinances, and
855 rules and regulations adopted by the municipality for the imposition and
856 administration of a municipal income tax.
857
858

861
862 a) "Municipal Taxable Income" for a taxpayer who is not an individual is
863 calculated as follows:

864
865 (1) "Income" ~~reduced by "Exempt Income" to the extent otherwise included in~~
866 ~~income~~, multiplied by apportionment, further and if applicable, reduced
867 by any "Pre-2017 Net Operating Loss Carryforward" equals "Municipal
868 Taxable Income".

869
870 i. "Net Profit" for a person other than an individual is defined in
871 Section 164.05(v) of this Chapter.

872
873 ii. "Adjusted Federal Taxable Income" is defined in Section 164.05(a)
874 of this Chapter.

875
876 (2) "Exempt Income" is defined in Section 164.05(j) of this Chapter.

877
878 (3) "Apportionment" means the apportionment as determined by Section
879 164.08 of this Chapter.

880
881 (4) "Pre-2017 Net Operating Loss Carryforward" is defined in Section 164.05
882 (ff) of this Chapter.

883
884 **164.08 NET PROFIT; INCOME SUBJECT TO NET PROFIT TAX; ALTERNATIVE**
885 **APPORTIONMENT.**

886
887 This Section applies to any taxpayer engaged in a business or profession in the
888 Municipality unless the taxpayer is an individual who resides in the Municipality or
889 the taxpayer is an electric company, combined company, or telephone company that is
890 subject to and required to file reports under Chapter 5745 of the Ohio Revised Code.
891 For purposes of this Section, the municipality is defined in Section 164.05(t) and the
892 net profit calculated herein shall apply as set forth in Section 164.06 and 164.07 of
893 this Chapter.

894
895 a) Net profit from a business or profession conducted both within and without the
896 boundaries of the Municipality shall be considered as having a taxable situs in
897 the Municipality for purposes of municipal income taxation in the same
898 proportion as the average ratio of the following:

899
900 (1) The average original cost of the real property and tangible personal
901 property owned or used by the taxpayer in the business or profession in
902 the Municipality during the taxable period to the average original cost of
903 all of the real and tangible personal property owned or used by the
904 taxpayer in the business or profession during the same period, wherever
905 situated. As used in the preceding sentence, tangible personal or real
906 property shall include property rented or leased by the taxpayer and the
907 value of such property shall be determined by multiplying the annual
908 rental thereon by eight;

909
910 (2) Wages, salaries, and other compensation paid during the taxable period
911 to individuals employed in the business or profession for services

912 performed in the Municipality to wages, salaries, and other compensation
913 paid during the same period to individuals employed in the business or
914 profession, wherever the individual's services are performed, excluding
915 compensation from which taxes are not required to be withheld under
916 Section 164.11 of this Chapter;

- 917
- 918 (3) Total gross receipts of the business or profession from sales and rentals
919 made and services performed during the taxable period in the
920 Municipality to total gross receipts of the business or profession during
921 the same period from sales, rentals, and services, wherever made or
922 performed.
923
- 924 b) (1) If the apportionment factors described in Division (a) of this Section do
925 not fairly represent the extent of a taxpayer's business activity in the
926 Municipality, the taxpayer may request, or the Tax Administrator may
927 require, that the taxpayer use, with respect to all or any portion of the
928 income of the taxpayer, an alternative apportionment method involving
929 one or more of the following:
930
- 931 i. Separate accounting;
 - 932
 - 933 ii. The exclusion of one or more of the factors;
 - 934
 - 935 iii. The inclusion of one or more additional factors that would provide
936 for a more fair apportionment of the income of the taxpayer to the
937 Municipality;
 - 938
 - 939 iv. A modification of one or more of the factors.
- 940
- 941 (2) A taxpayer request to use an alternative apportionment method shall be
942 in writing and shall accompany a tax return, timely filed appeal of an
943 assessment, or timely filed amended tax return. The taxpayer may use
944 the requested alternative method unless the Tax Administrator denies
945 the request in an assessment issued within the period prescribed by
946 Section 164.33(a) of this Chapter.
947
- 948 (3) The Tax Administrator may require a taxpayer to use an alternative
949 apportionment method as described in Division (b)(1) of this Section only
950 by issuing an assessment to the taxpayer within the period prescribed by
951 Section 164.33 of this Chapter.
952
- 953 (4) Nothing in Division (b) of this Section nullifies or otherwise affects any
954 alternative apportionment arrangement approved by the Tax
955 Administrator or otherwise agreed upon by both the Tax Administrator
956 and taxpayer before January 1, 2016.
957
- 958 c) As used in Division (a)(2) of this Section, "wages, salaries, and other
959 compensation" includes only wages, salaries, or other compensation paid to an
960 employee for services performed at any of the following locations:
961

- 962 (1) A location that is owned, controlled, or used by, rented to, or under the
963 possession of one of the following:
964
965 i. The employer;
966
967 ii. A vendor, customer, client, or patient of the employer, or a related
968 member of such a vendor, customer, client, or patient;
969
970 iii. A vendor, customer, client, or patient of a person described in
971 Division (c)(1)(ii) of this Section, or a related member of such a
972 vendor, customer, client, or patient.
973
- 974 (2) Any location at which a trial, appeal, hearing, investigation, inquiry,
975 review, court-martial, or similar administrative, judicial, or legislative
976 matter or proceeding is being conducted, provided that the compensation
977 is paid for services performed for, or on behalf of, the employer or that
978 the employee's presence at the location directly or indirectly benefits the
979 employer;
980
- 981 (3) Any other location, if the Tax Administrator determines that the employer
982 directed the employee to perform the services at the other location in lieu
983 of a location described in Division (c)(1) or (2) of this Section solely in
984 order to avoid or reduce the employer's municipal income tax liability. If
985 the Tax Administrator makes such a determination, the employer may
986 dispute the determination by establishing, by a preponderance of the
987 evidence, that the Tax Administrator's determination was unreasonable.
988
- 989 d) For the purposes of Division (a)(3) of this Section, receipts from sales and
990 rentals made and services performed shall be situated to a municipal
991 corporation as follows:
992
- 993 (1) Gross receipts from the sale of tangible personal property shall be
994 situated to the municipal corporation ~~in which the sale originated. For the~~
995 ~~purposes of this Division, a sale of property originates in a municipal~~
996 ~~corporation~~ only if, regardless of where title passes, the property meets
997 ~~any~~ either of the following criteria:
998
- 999 i. The property is shipped to or delivered within the municipal
1000 corporation from a stock of goods located within the municipal
1001 corporation.
1002
- 1003 ii. The property is delivered within the municipal corporation from a
1004 location outside the municipal corporation, provided the taxpayer
1005 is regularly engaged through its own employees in the solicitation
1006 or promotion of sales within such municipal corporation and the
1007 sales result from such solicitation or promotion.
1008
- 1009 ~~iii. The property is shipped from a place within the municipal~~
1010 ~~corporation to purchasers outside the municipal corporation,~~
1011 ~~provided that the taxpayer is not, through its own employees,~~

1012 ~~regularly engaged in the solicitation or promotion of sales at the~~
1013 ~~place where delivery is made.~~

1014
1015 (2) Gross receipts from the sale of services shall be situated to the municipal
1016 corporation to the extent that such services are performed in the
1017 municipal corporation.

1018
1019 (3) To the extent included in income, gross receipts from the sale of real
1020 property located in the municipal corporation shall be situated to the
1021 municipal corporation.

1022
1023 (4) To the extent included in income, gross receipts from rents and royalties
1024 from real property located in the municipal corporation shall be situated
1025 to the municipal corporation.

1026
1027 (5) Gross receipts from rents and royalties from tangible personal property
1028 shall be situated to the municipal corporation based upon the extent to
1029 which the tangible personal property is used in the municipal
1030 corporation.

1031
1032 e) The net profit received by an individual taxpayer from the rental of real estate
1033 owned directly by the individual or by a disregarded entity owned by the
1034 individual shall be subject to tax only by the municipal corporation in which
1035 the property generating the net profit is located and the municipal corporation
1036 in which the individual taxpayer that receives the net profit resides.

1037
1038 f) (1) Except as provided in Division (f)(2) of this Section, commissions received
1039 by a real estate agent or broker relating to the sale, purchase, or lease of
1040 real estate shall be situated to the municipal corporation in which the real
1041 estate is located. Net profit reported by the real estate agent or broker
1042 shall be allocated to a municipal corporation based upon the ratio of the
1043 commissions the agent or broker received from the sale, purchase, or
1044 lease of real estate located in the municipal corporation to the
1045 commissions received from the sale, purchase, or lease of real estate
1046 everywhere in the taxable year.

1047
1048 (2) An individual who is a resident of a municipal corporation that imposes a
1049 municipal income tax shall report the individual's net profit from all real
1050 estate activity on the individual's annual tax return for that municipal
1051 corporation. The individual may claim a credit for taxes the individual
1052 paid on such net profit to another municipal corporation to the extent
1053 that such credit is allowed under 164.14 of this Chapter.

1054
1055 g) If, in computing a taxpayer's adjusted federal taxable income, the taxpayer
1056 deducted any amount with respect to a stock option granted to an employee,
1057 the taxpayer shall add the amount that is exempt from taxation to the
1058 taxpayer's net profit that was apportioned to that municipal corporation. The
1059 taxpayer will not be required to add to its net profit that was apportioned to
1060 that Municipal Corporation any amount other than the amount upon which the
1061 employee would be required to pay tax were the amount related to the stock
1062 option not exempted from taxation. This Division applies solely for the purpose

1063 of making an adjustment to the amount of a taxpayer's net profit that was
1064 apportioned to a municipal corporation under this Section.

- 1065
1066 h) When calculating the ratios described in Division (a) or Division (b) of this
1067 Section, the owner of a disregarded entity shall include in the owner's ratios the
1068 property, payroll, and gross receipts of such disregarded entity.
1069

1070 **164.12 DECLARATION OF ESTIMATED TAX.**

- 1071
1072 a) As used in this Section:

1073
1074 (1) "Estimated taxes" means the amount that the taxpayer reasonably
1075 estimates to be the taxpayer's tax liability for a municipal corporation's
1076 income tax for the current taxable year.
1077

1078 (2) "Tax liability" means the total taxes due to a municipal corporation for
1079 the taxable year, after allowing any credit to which the taxpayer is
1080 entitled, and after applying any estimated tax payment, withholding
1081 payment, or credit from another taxable year.
1082

- 1083 b) (1) Every taxpayer shall make a declaration of estimated taxes for the
1084 current taxable year, on the form prescribed by the Tax Administrator, if
1085 the amount payable as estimated taxes is at least two hundred dollars.
1086 For the purposes of this Section:
1087

1088 i. Taxes withheld from qualifying wages shall be considered as paid
1089 to the municipal corporation for which the taxes were withheld in
1090 equal amounts on each payment date. If the taxpayer establishes
1091 the dates on which all amounts were actually withheld, the
1092 amounts withheld shall be considered as paid on the dates on
1093 which the amounts were actually withheld.
1094

1095 ii. An overpayment of tax applied as a credit to a subsequent taxable
1096 year is deemed to be paid on the date of the postmark stamped on
1097 the cover in which the payment is mailed or, if the payment is
1098 made by electronic funds transfer, the date the payment is
1099 submitted. As used in this Division, "date of the postmark" means,
1100 in the event there is more than one date on the cover, the earliest
1101 date imprinted on the cover by the postal service.
1102

1103 iii. A taxpayer having a taxable year of less than twelve months shall
1104 make a declaration under rules prescribed by the Tax
1105 Administrator.
1106

1107 (2) Taxpayers filing a joint return are required to file a joint declaration of
1108 estimated taxes.
1109

1110 (3) The declaration of estimated taxes shall be filed on or before the date
1111 prescribed for the filing of municipal income tax returns under Section
1112 164.13(g) of this Chapter or on or before the fifteenth day of the fourth

1113 month of the first taxable year after the taxpayer becomes subject to tax
1114 for the first time.
1115
1116 (4) Taxpayers reporting on a fiscal year basis shall file a declaration on or
1117 before the fifteenth day of the fourth month after the beginning of each
1118 fiscal year or period.
1119
1120 (5) The original declaration or any subsequent amendment may be increased
1121 or decreased on or before any subsequent quarterly payment day as
1122 provided in this Section.
1123
1124 c) (1) The required portion of the tax liability for the taxable year that shall be
1125 paid through estimated taxes made payable to the Municipality,
1126 including the application of tax refunds to estimated taxes and
1127 withholding on or before the applicable payment date, shall be as follows:
1128
1129 i. On or before the fifteenth day of the fourth month after the
1130 beginning of the taxable year, twenty-two and one-half per cent of
1131 the tax liability for the taxable year;
1132
1133 ii. On or before the fifteenth day of the sixth month after the
1134 beginning of the taxable year, forty-five per cent of the tax liability
1135 for the taxable year;
1136
1137 iii. On or before the fifteenth day of the ninth month after the
1138 beginning of the taxable year, sixty-seven and one-half per cent of
1139 the tax liability for the taxable year;
1140
1141 iv. ~~On~~ For an individual, on or before the fifteenth day of the first
1142 month of the following taxable year, ninety per cent of the tax
1143 liability for the taxable year. For a person other than an
1144 individual, on or before the fifteenth day of the twelfth month of
1145 the taxable year, ninety per cent of the tax liability for the taxable
1146 year.
1147
1148 (2) A taxpayer may amend a declaration under rules prescribed by the Tax
1149 Administrator. When an amended declaration has been filed, the unpaid
1150 balance shown due on the amended declaration shall be paid in equal
1151 installments on or before the remaining payment dates. The amended
1152 declaration must be filed on the next applicable due date as outlined in
1153 (c)(1)(i) through (iv) of this Section.
1154
1155 (3) On or before the fifteenth day of the fourth month of the year following
1156 that for which the declaration or amended declaration was filed, an
1157 annual return shall be filed and any balance which may be due shall be
1158 paid with the return in accordance with Section 164.13 of this Chapter.
1159
1160 (4) An amended declaration is required whenever the taxpayer's estimated
1161 tax liability changes during the taxable year. A change in estimated tax
1162 liability may either increase or decrease the estimated tax liability for the
1163 taxable year.

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- d) (1) In the case of any underpayment of any portion of a tax liability, penalty and interest may be imposed pursuant to Section 164.21 of this Chapter. However, if the underpayment is due to reasonable cause as described in Division (e) of this Section penalty and interest will not be imposed. The amount of the underpayment shall be determined as follows:
 - i. 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;
 - ii. 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;
 - iii. 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;
 - iv. 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 will not be added to the taxes for the taxable year if any of the following apply:
 - (1) The amount of estimated taxes that were paid equals at least ninety per cent of the tax liability for the current taxable year, determined by annualizing the income received during the year up to the end of the month immediately preceding the month in which the payment is due.
 - (2) The amount of estimated taxes that were paid equals at least one hundred per cent of the tax liability shown on the return of the taxpayer for the preceding taxable year, provided that the immediately preceding taxable year reflected a period of twelve months and the taxpayer filed a return with the municipal corporation under Section 164.13 of this Chapter for that year.
 - (3) The taxpayer is an individual who resides in the Municipality but was not domiciled there on the first day of January of the calendar year that includes the first day of the taxable year.

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- f) The 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.

Section 2. Any ordinances or resolutions or portions of ordinances and resolutions inconsistent herewith are hereby repealed, but any ordinances and resolutions not inconsistent herewith and which have not previously been repealed are hereby ratified and confirmed.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any committees that resulted in those formal actions were in meetings open to the public, in compliance with all requirements including Chapter 107 of the Codified Ordinances.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, convenience and welfare of the City of Cuyahoga Falls and the inhabitants thereof, and provided it receives the affirmative vote of two-thirds of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force at the earliest period allowed by law.

Passed: _____

President of Council

Clerk of Council

Approved _____

Mayor

1/8/18
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3
4 CITY OF CUYAHOGA FALLS, OHIO

5
6 RESOLUTION NO. - 2018

7
8
9 A RESOLUTION RECOGNIZING JANUARY 21-27, 2018 AS
10 PUBLIC EDUCATION WEEK, AND DECLARING AN
11 EMERGENCY.
12

13
14 WHEREAS, traditional public school districts in Ohio serve more than 1.8 million
15 students and employ more than 245,000 Ohioans full time; and
16

17 WHEREAS, all children in the City of Cuyahoga Falls should have access to the highest-
18 quality education possible; and
19

20 WHEREAS, the City of Cuyahoga Falls recognizes the important role that an effective
21 education plays in preparing all students in the City of Cuyahoga Falls to be successful
22 adults; and
23

24 WHEREAS, quality education is critically important to the economic vitality of the City of
25 Cuyahoga Falls; and
26

27 WHEREAS, the Woodridge Local School District Board of Education passed a resolution
28 on December 19, 2017, recognizing Public Education Week as January 21-27, 2018; and
29

30 WHEREAS, public education not only helps to diversify the economy, but also enhances
31 the vibrancy of the Cuyahoga Falls community; and
32

33 WHEREAS, the City of Cuyahoga Falls recognizes that there are many high-quality
34 teaching professionals who are committed to educating students; and
35

36 WHEREAS, public education is celebrated across the country by millions of students,
37 parents, educators, schools and organizations to raise awareness of the need for effective
38 public schools.
39

40 NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cuyahoga Falls,
41 County of Summit and State of Ohio, that:
42

43 Section 1. The Council and Administration hereby recognize January 21-27, 2018 as
44 Public Education Week.
45

46 Section 2. It is found and determined that all formal actions of this Council concerning
47 and relating to the adoption of this resolution were adopted in an open meeting of this
48 Council and that all deliberations of this Council and of any of its committees that resulted

49 in such formal action were in meetings open to the public, in compliance with all legal
50 requirements including Chapter 107 of the Codified Ordinances.

51
52 Section 3. This resolution is hereby declared to be an emergency measure necessary
53 for the preservation of the public peace, health, safety, convenience and welfare of the City
54 of Cuyahoga Falls and the inhabitants thereof and provided it receives the affirmative vote
55 of two-thirds of the members elected or appointed to Council, it shall take effect and be in
56 force immediately upon its passage and approval by the Mayor; otherwise it shall take effect
57 and be in force at the earliest period allowed by law.

58
59

60 Passed: _____
61 _____
62 President of Council

63
64 _____
65 Clerk of Council
66

67
68 Approved: _____
69 _____
70 Mayor

71 1/8/18

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