

**DOCKET
OF A MEETING OF
THE LAKEWOOD CITY COUNCIL
TO BE HELD IN THE COUNCIL CHAMBERS
LAKEWOOD CITY HALL - 12650 DETROIT AVENUE
OCTOBER 17, 2016
7:30 P.M.**

The Regular Meetings of Lakewood City Council shall be held on the first and third Mondays of each month at 7:30 P.M., except that when such meeting date falls on a holiday such meeting shall instead be held on the following day. A Docket and Agenda of the business proposed to be transacted by Council will be available in the Clerk's Office and on the City's website www.onelakewood.com as soon after 4 PM on the Friday before a Council meeting as possible.

Section 121.08 of the Codified Ordinances of the City of Lakewood establishes rules for the public to follow when speaking before Council:

ADDRESSING COUNCIL – The President may recognize any non-member for addressing Council on any question then pending. In such cases, the person recognized shall address the chair, state his or her name and address and the subject matter he or she desires to discuss. Speakers must be courteous in their language and avoid personalities. When addressed by the Chair, the speaker must yield the floor and comply with all rulings of the chair, said rulings not being open to debate. Except with permission of Council specifically given, speakers shall be limited to five minutes. No person who has had the floor shall again be recognized until all others desiring an opportunity to speak have been given an opportunity to do so.

AGENDA ITEMS PROTOCOL:

The Clerk at the beginning of the meeting will present the AGENDA ITEMS sign-in sheet to the President of Council. Speakers will be called to address Council by the Chair. A citizen must first write his or her name, address and agenda item number on the designated sign-in sheet in order to be recognized.

PUBLIC COMMENT PROTOCOL:

The Clerk at the end of the meeting will present the PUBLIC COMMENT sign-in sheet to the President of Council. Public Comment will be welcomed at the end of a Council Meeting on miscellaneous issues or issues other than agenda items. A citizen must first write his or her name, address and topic on the designated sign-in sheet in order to be recognized. The forum is not designed to be a question and answer session.

- I. Pledge of Allegiance
- II. Moment of Silence
- III. Roll Call

Reading and disposal of the minutes of the Regular Meeting of Council held October 3, 2016.

Reports, legislation and communications from Members of Council, the Mayor and other City Officials.

****OLD BUSINESS****

1. Committee of the Whole Report regarding 10/17/16 meeting. Mr. O'Leary; Chair. (To Be provided)
2. Public Works Committee Report regarding Resolutions 8888-16, 8892-16 and Lakewood Park Skate House. Mr. Nowlin; Chair (Pg.4)
3. **RESOLUTION NO. 8888-16** – A RESOLUTION to take effect immediately provided it received the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, declaring it necessary to construct and provide improvements to protect the northerly property line of the Winton Place Condominium from erosion by Lake Erie, including repairs and maintenance to the existing revetment system constructed along the water's edge of Lake Erie appurtenant to the Winton Place Condominium located at 12700 Lake Avenue. (1ST READING & REFERRED TO PUBLIC WORKS COMMITTEE 9/19/16) (Pg. 6)
4. Health & Human Services Committee Report regarding Resolution 8891-16. Ms. Marx; Chair (To Be Provided)
5. **RESOLUTION NO. 8891-16** – A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed \$214,780.00 for a one-year period commencing January 1, 2017. (REFERRED TO THE HEALTH & HUMAN SERVICES COMMITTEE 10/3/16) (Pg. 9)
6. **ORDINANCE NO. 36-16** AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter. (1ST READING 10/3/16) (Pg. 12)

****NEW BUSINESS****

7. Communication from Councilmember Marx regarding Lakewood High School Nation Tour. (Pg. 14)
8. Communication from Mayor summers regarding Public Art Task Force Update. (Pg. 15)
9. Communication from Mayor Summers regarding Discussion of an amendment to L.C.O. 510.01 – Declaration of Nuisances. (Pg.16)
10. **ORDINANCE NO. 37-16** – AN ORDINANCE amending subsection (a) of Section 510.01, Declaration of Nuisances, of the Codified Ordinances of the City of Lakewood by including false alarm calls required to be responded to by the Division of Police as nuisance activity. (Pg. 17)
11. Communication from Finance Director Pae regarding Income Tax Code Changes. (Pg. 20)
12. **ORDINANCE NO. 38-16** – AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Section 128.051, Collection at Source; Withholding From Qualifying Wages, and Section 128.091, Return and Payment of Tax, of the Codified Ordinances of the City of Lakewood, in order to adopt additional changes to the Income Tax Code that were incorporated into the Ohio Revised Code. (Pg. 21)
13. Communication from Planning Commission regarding Changes to Chapter 1306.60, Exterior Electric and Fuel Burning Cooking Devices. (Pg. 33)
14. **ORDINANCE 3-16** – AN ORDINANCE amending Section 1306.60 of the Codified Ordinances of the City of Lakewood by expanding on the regulations governing exterior electric and fuel-burning cooking devices. (Pg. 34)
15. Liquor Permit Notice for C1 and C2 transfers to 7 Eleven, 14718 Madison Avenue. (Pg.)



12650 DETROIT AVENUE 44107 216/529-6055 FAX 216/226-3650

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DAVID ANDERSON, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
JOHN LITTEN, WARD 3
DANIEL O'MALLEY, WARD 4

October 17, 2016

Lakewood City Council
Lakewood, Ohio

Re: Public Works Committee Report

Dear Members of Council,

The Public Works Committee met on October 11, 2016 to discuss Resolutions 8888-16 and 8892-16, and a communication from Mayor Summers regarding the Lakewood Park Skate House. Present were Councilmembers Bullock, Marx, & O'Malley, Director Beno, Director Butler, Mayor Summers, as well six individuals interested and/or involved with the Winton Place revetment project.

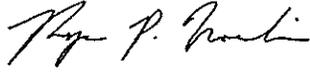
The first topic was Resolution 8888-16. This Resolution is the first step in the process to levy a special assessment on condo owners at the Winton Place to pay for the construction of a revetment to stop erosion from occurring on the property's cliff. The project has the support of the Condo Board and at least 72% of condo owners, who petitioned the administration for a special assessment. The Committee discussed many aspects of the project including its timeline, financing, and other logistics.

The President of the Winton Place Condo Association was present and stated that in order to protect its property the Winton Place must move forward with the revetment project with or without the special assessment. However, the special assessment makes the project dramatically more affordable for residents because it allows their payments toward the project to be stretched over 20 years. Without the special assessment, the condo would have to pay off the project within one year. A resident of the Winton Place was present and asked for swift action by Council to help relieve residents from the payments which have already started. The Committee moved to recommend adoption of Resolution 8888-16.

Director Beno asked that Resolution 8892-16 be discharged. The Resolution proposed to add an additional project to the pending Ohio Public Works Commission grant application. After further research and consideration, the Department decided not to move forward at this time with the additional request. The Committee moved to table Resolution 8892-16.

Lastly, the Committee again discussed the need to improve the Lakewood Park Skate House. Previously, the Lakewood Historical Society had committed \$150,000 toward improving the space but may now be directing its funds to a different site. Going forward, Council and the administration must weigh the value of an expensive renovation against the potential for additional public space, along with other considerations. Discussions on this topic will continue on an informal basis.

Sincerely,



Ryan P. Nowlin, Chair
Tom Bullock, David Anderson; Members
FINANCE COMMITTEE

RESOLUTION NO. 8888-16

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, declaring it necessary to construct and provide improvements to protect the northerly property line of the Winton Place Condominium from erosion by Lake Erie, including repairs and maintenance to the existing revetment system constructed along the water's edge of Lake Erie appurtenant to the Winton Place Condominium located at 12700 Lake Avenue.

WHEREAS, a majority of unit owners of the Winton Place Condominium wish to have the northerly property line improved as described above in the title of this resolution and have demonstrated such through the signing of a petition in support of self-assessment for the cost associated with such; and

WHEREAS, the Winton Place Condominium has 354 individual condominium units; and

WHEREAS, Winton Place collectively pays property taxes annually in the approximate amount of \$1,300,000; and

WHEREAS, the City desires to assist the property owners of the Winton Place by making these improvements and permitting the property owners the benefit of paying for these improvements by way of special assessment; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, that it shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that these improvements are immediately necessary to preserve both the bluff and the structures on this property; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. It is necessary to improve the northerly property line of the Winton Place Condominium in the City of Lakewood.

Section 2. Said property shall be improved in accordance with specifications hereinafter referred to and now on file in the office of the Engineering Division, including repairs and maintenance to the existing revetment system constructed along the water's edge of Lake Erie appurtenant to the Winton Place Condominium located at 12700 Lake Avenue.

Section 3. It is hereby determined and declared that said improvement is conducive to the public health, convenience and welfare of said City and the inhabitants thereof.

Section 4. It is hereby declared that the installation of these improvements constitute a public purpose.

Section 5. The plans, specifications and estimates of the proposed improvements heretofore prepared and now on file in the office of the City Engineer are hereby approved.

Section 6. Council hereby determines that the 354 condominium units and lands abounding and abutting upon the proposed improvements are specially benefited by said improvements and shall be assessed in accordance with each unit's undivided ownership interest in the Winton Place Condominium, that is, in proportion to the benefits which may result from the improvements. The assessments shall cover no more than 49/50ths of the entire actual cost of engineering of, site preparation for and construction of said improvements and include the cost of preliminary and other surveys; publishing notices, resolutions and ordinances; the amount of damages resulting from the improvement assessed in favor of any owner of land affected by the improvement; the preparation, levy, and collection of the special assessments; the cost of purchasing, appropriating and otherwise acquiring labor and material; together with all other necessary expenditures, such total amount of the assessment not to exceed \$[*to be provided*] and being hereby determined to be equal to the special benefit derived by the 354 condominium units and lands so abounding and abutting these improvements.

Section 7. The Clerk of Council is hereby directed to deliver a certified copy of this resolution to the Director of Finance of the City.

Section 8. Pursuant to Section 3 of Article XVI of the Second Amended Charter of the City, the Director of Finance is hereby authorized and directed to prepare and file with this Council the estimated assessments of the cost of the improvement described in this resolution. When such estimated assessments have been so filed, said Director of Finance shall cause notice of the adoption of this resolution and the filing of said estimated assessments to be made as provided in said Article XVI.

Section 9. The assessments to be levied shall be paid in 20 equal and consecutive semi-annual installments as provided herein, provided that the owner of any property assessed may, at his, her or its option, pay such assessment in whole within 30 days after initial receipt of the City's invoice.

Section 10. When an owner of any property assessed elects to pay said assessment via installments as described above, additional fees and charges such as those imposed by the Cuyahoga County Fiscal Officer for special assessments shall be borne by said property owner.

Section 11. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 12. This resolution is hereby declared to be an emergency measure for the reasons stated in the preamble hereof, and provided it receives the affirmative vote of at least five members of Council it shall take effect and be in force immediately upon its adoption and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor

RESOLUTION NO. 8891-16

BY:

A RESOLUTION to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing the Mayor to enter into an agreement with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed \$214,780.00 for a one-year period commencing January 1, 2017.

WHEREAS, the Cuyahoga County Board of Health has proposed providing public health services for residents of the City of Lakewood at a per capita rate of \$4.12, which represents a 5% increase for the services over last year; and

WHEREAS, it is necessary to continue public health services to residents of the City of Lakewood through the District Advisory Council of Cuyahoga County, Ohio General Health District; and

WHEREAS, this Council by a vote of at least five of its members determines that this resolution is an emergency measure, and that this resolution shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal services, in that this agreement must be in effect prior to January 1, 2017 to continue health services; now, therefore

BE IT RESOLVED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Mayor, on behalf of the City, is hereby authorized to enter into an agreement, attached as Exhibit A, with the District Advisory Council of Cuyahoga County, Ohio General Health District for the provision of public health services within the City of Lakewood in an amount not to exceed \$214,780.00 for a one-year period commencing January 1, 2017 pursuant to the authority granted in Section 3709.07 of the Ohio Revised Code.

Section 2. It is found and determined that all formal actions of this Council concerning and relating to the passage of this resolution were adopted in an open meeting of this Council, and that all such deliberation of the Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 3. This resolution is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this resolution, and provided it receives the affirmative vote of at least five members of Council, this resolution shall take effect and be in force immediately upon its adoption by the

Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President of Council

Clerk of Council

Approved: _____

Mayor

CONTRACT FOR PUBLIC HEALTH SERVICES
(City with a General Health District - Authority--Sec.3709.08 O.R.C.)

WHEREAS, the District Advisory Council of the Cuyahoga County, Ohio, General Health District, at a meeting held March 21, 2016, by a majority vote of members representing the townships and villages did vote affirmatively on the question of providing public health services to the City of Lakewood, Ohio, and did authorize the Chairman of the District Advisory Council to enter into a contract with the Mayor of Lakewood, Ohio, for providing public health services therein; and

WHEREAS, the Council of the City of Lakewood, at a Council meeting held _____, by majority vote of all members did vote affirmatively on the question of contracting with the District Advisory Council of the Cuyahoga County General Health District for providing public health services to the City of Lakewood and did authorize the Mayor to enter into a contract with the Chairman of the District Advisory Council of the Cuyahoga County General Health District to provide public health services.

NOW, THEREFORE, pursuant to such authority, David Smith on behalf of the District Advisory Council of the Cuyahoga County General Health District and Michael P. Summers on behalf of the City of Lakewood do agree as follows:

The General Health District of Cuyahoga County, Ohio, hereby agrees to provide health services for the City of Lakewood for the year 2017. These health services will be provided by the District Board of Health of Cuyahoga County and will include all necessary medical, nursing, sanitary, laboratory and such other health services as are required by the Statutes of the State of Ohio. Air pollution enforcement services, as described in Chapter 3704 of the Ohio Revised Code, will be conducted through the designated agent, the Cleveland Division of Air Pollution Control. This authorization is contingent upon renewal of the contract between the Ohio EPA and the City of Cleveland and satisfactory performance of the contract terms and conditions regarding air pollution control in Cuyahoga County. The Board of Health reserves the right to alter, modify or amend this contract provision with notice to the City.

The City of Lakewood hereby agrees, in return for the health services which will be provided by the District Board of Health of Cuyahoga County for the year 2017, to pay to the Cuyahoga County General Health District the sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars (\$214,780.00). This sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars (\$214,780.00) shall be paid by the City of Lakewood to the Cuyahoga County General Health District, no later than July 1, 2017. In the event payment is not made by July 1, 2017, the City of Lakewood hereby directs the Fiscal Officer of Cuyahoga County to place to the credit of the District Health Fund of Cuyahoga County, and the Fiscal Office of Cuyahoga County is hereby authorized to deduct said sum of Two Hundred Fourteen Thousand Seven Hundred Eighty Dollars (\$214,780.00) in one installment from the regular tax settlement to be made for said city for the year 2017. This contract shall be in full force and effect from January 1, 2017 through December 31, 2017.

This agency is an equal provider of services and an equal employment opportunity employer-Civil Rights Act 1964

IN WITNESS WHEREOF, we hereunder subscribe our names.

City of Lakewood
By _____
Mayor

Cuyahoga County General Health District
By _____
Chairman, District Advisory Council

Date _____

Date _____

ORDINANCE NO. 36-16

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, to approve the editing and inclusion of certain ordinances as parts of the various component codes of the Codified Ordinances and to provide for the publication of such new matter.

WHEREAS, the Walter H. Drane Company has completed a revision and updating of the Codified Ordinances of the City; and

WHEREAS, various ordinances and resolutions of a general and permanent nature that have been passed by Council but not yet included in the Codified Ordinances of the City have now been made a part thereof; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure, and that this ordinance shall take effect at the earliest date possible as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health and safety, and to provide for the usual daily operation of municipal departments in that the publication and distribution of the August 2016 Replacement Pages for the Codified Ordinances of the City of Lakewood should be conducted at the earliest date possible; now therefore,

BE IT ORDAINED BY CITY OF LAKEWOOD, OHIO:

Section 1. The editing, arrangement and numbering and renumbering of the following ordinances and resolutions and parts of ordinances and resolutions are hereby approved as parts of the various component codes of the Codified Ordinances of the City, so as to conform to the classification and numbering system of the Codified Ordinances:

<u>Ord. No.</u>	<u>Date</u>	<u>C.O. Section</u>
1-16	6-20-16	142.01, 516.01 to 516.21, 516.99, 537.18, 1327.08
23-16	5-2-16	505.18
24-16	5-2-16	1133.09(b)(1)

Section 2. The Second Amended Charter published in the Codified Ordinances is the official Charter of the City of Lakewood.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least five members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the

Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

President

Clerk

Approved: _____

Mayor



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Lakewood City Council
SAM O'LEARY, PRESIDENT
DAVID ANDERSON, VICE PRESIDENT

Council at Large
RYAN P. NOWLIN
THOMAS R. BULLOCK III
CINDY MARX

Ward Council
DAVID W. ANDERSON, WARD 1
SAM O'LEARY, WARD 2
JOHN LITTEN, WARD 3
DAN O'MALLEY, WARD 4

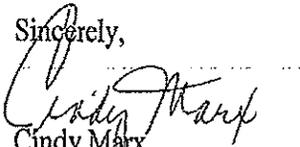
October 17, 2016

Dear Colleagues,

It is a great pleasure to acknowledge Lakewood High School as one of only three Ohio high schools participating as a stop on The High School Nation Tour on October 13th. This festival was founded to celebrate the arts in public schools and features journalism, fine and performing arts, fashion, film, photography and stage production. Certainly, we all know the positive influence the arts have on our community.

The art and music departments of Lakewood High School will receive more than \$10,000 in donations from tour sponsors. Kudos to Lakewood High School for appreciating the importance of arts education for our students and for opening creative expression opportunities to our teens.

Sincerely,


Cindy Marx
Councilmember At-Large



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Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

October 12, 2015

Lakewood City Council Members
Lakewood, Ohio 44107

Re: Public Art Task Force Update

Council Members –

We appointed the Public Art Task Force late last year. This group has been meeting monthly since January 2016. Tiffany Graham Charkosky, Chair of the Public Art Task Force has asked if the group might provide City Council and the Administration with an update on their work as well as answer questions.

The six Public Art Task Force members will be available at the City Council meeting on Monday, October 17, 2016 for a presentation and questions and answers.

Very truly yours,

Michael P. Summers, Mayor



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Website: www.onelakewood.com

MICHAEL SUMMERS
MAYOR

October 12, 2016

Re: Discussion of an amendment to L.C.O. 510.01 – Declaration of Nuisances

Dear Members of Council,

I would like to introduce further discussion about broadening the description of situations that support the Declaration of Nuisances under Lakewood Codified Ordinance 510.01. Specifically, the city safety forces are often called multiple times to an address for false alarms triggered from residential and commercial alarm service equipment malfunctions. Safety service response to false alarms put a financial and a time-burden on our safety forces, arguably warranting a reimbursement to the city for the cost of responding to multiple false alarms at the same residence or business. There has to be some means of putting pressure on the property or business owner and the alarm company to correct continuous equipment malfunctions.

I ask that you refer this conversation to the appropriate committee for further discussion and consideration.

Sincerely,

Michael P. Summers

ORDINANCE NO.

BY:

AN ORDINANCE amending subsection (a) of Section 510.01, Declaration of Nuisances, of the Codified Ordinances of the City of Lakewood by including false alarm calls required to be responded to by the Division of Police as nuisance activity.

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Subsection (a) of Section 510.01, Declaration of Nuisances, of the Codified Ordinances of the City of Lakewood, currently reading as follows:

SECTION 510.01 DECLARATION OF NUISANCES.

(a) Definition of Nuisance Activity. The following activities occurring either on residential or commercial property, or within one thousand (1,000) feet of the property line of said residential or commercial property, and engaged in by an owner, or the owner's agent, or the owner's lessee, occupant, invitee or the person or entity in charge of said residential or commercial property (including individual apartment and condominium units) are hereby declared to be public nuisances:

(1) Any animal violations under Sections 505.02 (dogs running at large), 505.13, 505.15 and 505.20 (animal noise, excrement and biting), 505.18 or Chapter 506 (dangerous or vicious animals), 505.07 (killing or injuring animals), 505.09 (cruelty to animals) of the Codified Ordinances;

(2) Any disorderly conduct disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;

(3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;

(4) Any noise violation under Chapter 515 of the Codified Ordinances;

(5) Any gambling violation under Chapter 517 of the Codified Ordinances;

(6) Any health, safety, or sanitation violation under Chapter 521, 1775 or 1779 of the Codified Ordinances;

(7) Any littering or deposition of waste under Section 521.08 of the Codified Ordinances;

(8) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;

(9) Any alcohol violations under Chapter 529 of the Codified Ordinances or under Chapter 4301 of the Ohio Revised Code;

(10) Any sex offenses under Sections 533.07 (public indecency), 533.08 (procuring), 533.09 (soliciting) or 533.10 (prostitution) of the Codified Ordinances;

(11) Any offenses against persons under Chapter 537 of the Codified Ordinances;

(12) Any offenses against property under Sections 541.03 (criminal damaging or endangering) or 541.04 (criminal mischief) of the Codified Ordinances;

(13) Any theft violation under Sections 545.05 (petty theft), 545.08 (unauthorized use of property), of the Codified Ordinances;

(14) Any weapons, explosives, firearm or handgun violation under Chapters 549 of the Codified Ordinances;

(15) Any fireworks violation under Section 549.10 of the Codified Ordinances;

(16) Any offense that is a felony under the Ohio Revised Code.

is hereby repealed, and new subsection (a) of Section 510.01, Declaration of Nuisances, is hereby enacted to read as follows:

SECTION 510.01 DECLARATION OF NUISANCES.

(a) Definition of Nuisance Activity. The following activities occurring either on residential or commercial property, or within one thousand (1,000) feet of the property line of said residential or commercial property, and engaged in by an owner, or the owner's agent, or the owner's lessee, occupant, invitee or the person or entity in charge of said residential or commercial property (including individual apartment and condominium units) are hereby declared to be public nuisances:

(1) Any animal violations under Sections 505.02 (dogs running at large), 505.13, 505.15 and 505.20 (animal noise, excrement and biting), 505.18 or Chapter 506 (dangerous or vicious animals), 505.07 (killing or injuring animals), 505.09 (cruelty to animals) of the Codified Ordinances;

(2) Any disorderly conduct disturbance of the peace or other violation of Chapter 509 of the Codified Ordinances;

(3) Any drug abuse violation under Chapter 513 of the Codified Ordinances;

(4) Any noise violation under Chapter 515 of the Codified Ordinances;

(5) Any gambling violation under Chapter 517 of the Codified Ordinances;

(6) Any health, safety, or sanitation violation under Chapter 521, 1775 or 1779 of the Codified Ordinances;

(7) Any littering or deposition of waste under Section 521.08 of the Codified Ordinances;

(8) Any obstruction of official business violation under Section 525.07 of the Codified Ordinances;

(9) Any alcohol violations under Chapter 529 of the Codified Ordinances or under Chapter 4301 of the Ohio Revised Code;

(10) Any sex offenses under Sections 533.07 (public indecency), 533.08 (procuring), 533.09 (soliciting) or 533.10 (prostitution) of the Codified Ordinances;

(11) Any offenses against persons under Chapter 537 of the Codified Ordinances;

(12) Any offenses against property under Sections 541.03 (criminal damaging or endangering) or 541.04 (criminal mischief) of the Codified Ordinances;

(13) Any theft violation under Sections 545.05 (petty theft), 545.08 (unauthorized use of property), of the Codified Ordinances;

(14) Any weapons, explosives, firearm or handgun violation under Chapters 549 of the Codified Ordinances;

(15) Any fireworks violation under Section 549.10 of the Codified Ordinances;

(16) Any false alarm call which is defined for the purposes of this Chapter as being an emergency call by an alarm company triggered by either an automated or manual alarm activation which, after investigation by the Division of Police it is determined that there is no need for criminal investigation and that the alarm activated for some other reason.

(17) Any offense that is a felony under the Ohio Revised Code.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

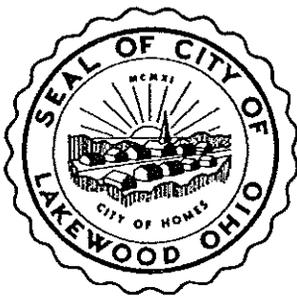
Adopted: _____

PRESIDENT

CLERK OF COUNCIL

Approved: _____

MAYOR



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Jennifer R. Pae
Director of Finance

October 17, 2016

Lakewood City Council
Lakewood, OH 44107

Re: Income Tax Code Changes

Dear Members of Council:

The specter of Substitute House Bill 5 (HB 5) continues to loom large. The bill was passed by the Ohio Senate in December of 2014, and though the bill was written and revised over the course of two years prior to its passage, some revision was and is expected. In light of this, we bring forward an amendment.

This amendment comes in the form of those revisions put forth by Senate Bill 172 (SB 172), which was signed by Governor John Kasich on June 14, 2016 and became effective on September 12, 2016. SB 172 extends the deadline for payment of quarterly municipal withholding from the 15th of the month to the last day of the month in which the calendar quarter ends, and modifies the rules for when municipal income tax withholding payments are considered to have been timely received.

The amendment presented is not likely to be the last of those mandated by HB 5. As future legislation is passed by the General Assembly to help navigate HB 5's complexity and ambiguity, and as constitutional issues arise and must be addressed, additional clarification from the courts as to the practical application and interpretation of tax code will likely necessitate further amendments moving forward.

Please refer to the Finance Committee for further discussion.

Respectfully,

Jennifer R. Pae
Director of Finance



ORDINANCE NO.

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending Section 128.051, Collection at Source; Withholding From Qualifying Wages, and Section 128.091, Return and Payment of Tax, of the Codified Ordinances of the City of Lakewood, in order to adopt additional changes to the Income Tax Code that were incorporated into the Ohio Revised Code.

WHEREAS, this Council adopted the changes implemented in HB 5 which standardized municipal income tax codes in December 2015; and

WHEREAS, SB 172 was adopted by the state legislature and became effective on September 12, 2016 and further modified those standardized municipal tax codes; and

WHEREAS, these changes are necessary to keep Lakewood's tax code consistent with the states' code; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that it is in the best interest of the City to permit applicants an opportunity to seek Zoning Code variances during the current construction season; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 128.051, Collection at Source; Withholding From Qualifying Wages, of the Lakewood Codified Ordinances, currently reading as follows:

128.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 128.052 of this Chapter or division (d) or (f) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (a)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

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

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

(C) An employer, agent of an employer or other payer may be required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator

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

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

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

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

(g) Each employer, agent of an employer, or other payer required to withhold taxes is liable for the payment of that amount required to be withheld, whether or not such taxes

have been withheld, and such amount shall be deemed to be held in trust for the Municipality until such time as the withheld amount is remitted to the Tax Administrator.

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

(i) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

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

(k) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section. At no time shall an employer withhold at a rate greater than that of the municipality. (ORC 718.03)

(l) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.

shall be and hereby is repealed, and new Section 128.051, Collection at Source; Withholding From Qualifying Wages, of the Lakewood Codified Ordinances is enacted to read as follows:

128.051 COLLECTION AT SOURCE; WITHHOLDING FROM QUALIFYING WAGES.

(a) (1) Each employer, agent of an employer, or other payer located or doing business in the Municipality shall withhold from each employee an amount equal to the qualifying wages of the employee earned by the employee in the Municipality multiplied by the applicable rate of the Municipality's income tax, except for qualifying wages for which withholding is not required under section 128.052 of this Chapter or division (d) or (f) of this section. An employer, agent of an employer, or other payer shall deduct and withhold the tax from qualifying wages on the date that the employer, agent, or other payer directly, indirectly, or constructively pays the qualifying wages to, or credits the qualifying wages to the benefit of, the employee.

(2) In addition to withholding the amounts required under division (a)(1) of this section, an employer, agent of an employer, or other payer may also deduct and withhold, on the request of an employee, taxes for the municipal corporation in which the employee is a resident.

(b) (1) An employer, agent of an employer, or other payer shall remit to the Tax Administrator of the Municipality the greater of the income taxes deducted and withheld or the income taxes required to be deducted and withheld by the employer, agent, or other payer, along with any report required by the Tax Administrator to accompany such payment, according to the following schedule:

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

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

(C) An employer, agent of an employer or other payer may be required to make payment by electronic funds transfer to the Tax Administrator of all taxes deducted and withheld on behalf of the employee for remittance to the Municipality if the employer, agent of an employer, or other payer is required to make payments electronically for the purpose of paying federal taxes withheld on payments to employees under section 6302 of the Internal Revenue Code, 26 C.F.R. 31.6302-1, or any other federal statute or regulation. The payment of tax by electronic funds transfer under this division does not affect an employer's, agent's, or other payer's obligation to file any return as required under this section. Once the threshold for remitting payment electronically for federal purposes has been met, any accrued municipal income tax withheld from employee qualifying wages earned within the Municipality shall be remitted to the Municipality at the same time that the federal tax withholding payment is due.

(c) An employer, agent of an employer, or other payer shall make and file a return showing the amount of tax withheld by the employer, agent, or other payer from the qualifying wages of each employee and remitted to the Tax Administrator

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

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

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

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

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

(h) On or before the last day of February of each year, an employer shall file a Withholding Reconciliation Return with the Tax Administrator listing the names, addresses,

and social security numbers of all employees from whose qualifying wages tax was withheld or should have been withheld for the Municipality during the preceding calendar year, the amount of tax withheld, if any, from each such employee's qualifying wage, the total amount of qualifying wages paid to such employee during the preceding calendar year, the name of every other municipal corporation for which tax was withheld or should have been withheld from such employee during the preceding calendar year, any other information required for federal income tax reporting purposes on Internal Revenue Service form W-2 or its equivalent form with respect to such employee, and other information as may be required by the Tax Administrator.

(i) The officer or the employee of the employer, agent of an employer, or other payer with control or direct supervision of or charged with the responsibility for withholding the tax or filing the reports and making payments as required by this section, shall be personally liable for a failure to file a report or pay the tax due as required by this section. The dissolution of an employer, agent of an employer, or other payer does not discharge the officer's or employee's liability for a failure of the employer, agent of an employer, or other payer to file returns or pay any tax due.

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

(k) A Tax Administrator shall consider any tax withheld by an employer at the request of an employee when such tax is not otherwise required to be withheld by this Chapter to be tax required to be withheld and remitted for the purposes of this section. At no time shall an employer withhold at a rate greater than that of the municipality. (ORC 718.03)

(l) No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the Municipality, but such employee shall be subject to all of the requirements of this chapter.

Section 2. Section 128.091, Return and Payment of Tax, of the Lakewood Codified Ordinances, currently reading as follows:

128.091 RETURN AND PAYMENT OF TAX.

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

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 128.051(c) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, who attain the age of 18 years within a tax year and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

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

(c) If an individual is unable to complete and file a return or notice required by the Municipality in accordance with this chapter, the return or notice required of that individual shall be completed and filed by the individual's duly authorized agent, guardian, con-

servator, fiduciary, or other person charged with the care of the person or property of that individual. Such duly authorized agent, guardian, conservator, fiduciary, or other person charged with the care of the person or property of that individual shall provide, with the filing of the return, appropriate documentation to support that they are authorized to file a return or notice on behalf of the taxpayer. This notice shall include any legally binding authorizations, and contact information including name, address, and phone number of the duly authorized agent, guardian, conservator, fiduciary, or other person.

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

(e) Spouses shall be permitted to file a joint return.

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

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (f) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(g) (1) (A) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required

by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.

(B) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality.

(C) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

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

(3) With respect to taxpayers to whom Section 128.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 128.092 of this Chapter, the provision in Section 128.092 of this Chapter prevails.

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

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

(i) This division shall not apply to payments required to be made under division (b)(1)(B) of Section 128.051 of this Chapter.

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment is required to be made by electronic funds transfer, the payment is considered to be made when the payment is credited to an account designated by the Tax Administrator for the receipt of tax payments, except that, when a payment made by electronic funds transfer is delayed due to circumstances not under the control of the taxpayer, the payment is considered to be made when the taxpayer submitted the payment. For purposes of this section, "submitted the payment" means the date which the taxpayer has designated for the delivery of payment, which may or may not be the same date as the date the payment was initiated by the taxpayer.

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 128.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

(k) Each return required by the Municipality to be filed in accordance with this section shall include a box that the taxpayer may check to authorize another person, including a tax return preparer who prepared the return, to communicate with the Tax Administrator about matters pertaining to the return. The return or instructions accompanying the

return shall indicate that by checking the box the taxpayer authorizes the Tax Administrator to contact the preparer or other person concerning questions that arise during the examination or other review of the return and authorizes the preparer or other person only to provide the Tax Administrator with information that is missing from the return, to contact the Tax Administrator for information about the examination or other review of the return or the status of the taxpayer's refund or payments, and to respond to notices about mathematical errors, offsets, or return preparation that the taxpayer has received from the Tax Administrator and has shown to the preparer or other person. Authorization by the taxpayer of another person to communicate with the Tax Administrator about matters pertaining to the return does not preclude the Tax Administrator from contacting the taxpayer regarding such matters.

(l) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

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

(n) (1) As used in this division, "worksite location" has the same meaning as in Section 128.052 of this chapter.

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

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

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

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

(C) If a person submits an affidavit described in division (n)(2) of this section, the tax administrator shall not require the person to file any tax return for the taxable year unless the tax administrator possesses information that conflicts with the affidavit or if the circumstances described in the affidavit change, or the taxpayer has engaged in activity which results in work being performed, services provided, sales made, or other activity that results in municipal taxable income reportable to the Municipality in the taxable year. It shall be the responsibility of the tax-payer to comply with the provisions of this chapter relating to the reporting and filing of municipal taxable income on an annual municipal income tax return, even if an affidavit has been filed with the tax administrator for

the taxable year. Nothing in division (n) of this section prohibits the tax administrator from performing an audit of the person.

shall be and hereby is repealed, and new Section 128.091, Return and Payment of Tax, of the Lakewood Codified Ordinances is enacted to read as follows:

128.091 RETURN AND PAYMENT OF TAX.

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

(2) The Tax Administrator shall accept on behalf of all nonresident individual taxpayers a return filed by an employer, agent of an employer, or other payer located in the Municipality under subsection 128.051(c) of this Chapter when the nonresident individual taxpayer's sole income subject to the tax is the qualifying wages reported by the employer, agent of an employer, or other payer, and no additional tax is due to the Municipality.

(3) All resident individual taxpayers, who attain the age of 18 years within a tax year and older, shall file an annual municipal income tax return with the Municipality, regardless of income or liability.

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

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

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

(e) Spouses shall be permitted to file a joint return.

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

(2) A taxpayer who is an individual is required to include, with each annual return, amended return, or request for refund required under this section, copies of only the following documents: all of the taxpayer's Internal Revenue Service form W-2, "Wage and Tax Statements," including all information reported on the taxpayer's federal W-2, as well as taxable wages reported or withheld for any municipal corporation; the taxpayer's Internal Revenue Service form 1040; and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return. An individual taxpayer who files the annual return required by this section electronically is not required to provide paper copies of any of

the foregoing to the Tax Administrator unless the Tax Administrator requests such copies after the return has been filed.

(3) A taxpayer that is not an individual is required to include, with each annual net profit return, amended net profit return, or request for refund required under this section, copies of only the following documents: the taxpayer's Internal Revenue Service form 1041, form 1065, form 1120, form 1120-REIT, form 1120F, or form 1120S, and, with respect to an amended tax return or refund request, any other documentation necessary to support the refund request or the adjustments made in the amended return.

(4) A taxpayer that is not an individual and that files an annual net profit return electronically through the Ohio business gateway or in some other manner shall either mail the documents required under this division to the Tax Administrator at the time of filing or, if electronic submission is available, submit the documents electronically through the Ohio business gateway or a portal provided by Municipality. The department of taxation shall publish a method of electronically submitting the documents required under this division through the Ohio business gateway on or before January 1, 2016. The department shall transmit all documents submitted electronically under this division to the appropriate Tax Administrator.

(5) After a taxpayer files a tax return, the Tax Administrator shall request, and the taxpayer shall provide, any information, statements, or documents required by the Municipality to determine and verify the taxpayer's municipal income tax liability. The requirements imposed under division (f) of this section apply regardless of whether the taxpayer files on a generic form or on a form prescribed by the Tax Administrator.

(6) Any other documentation, including schedules, other municipal income tax returns, or other supporting documentation necessary to verify credits, income, losses, or other pertinent factors on the return shall also be included to avoid delay in processing, or disallowance by the Tax Administrator of undocumented credits or losses.

(g) (1) (A) Except as otherwise provided in this chapter, each individual income tax return required to be filed under this section shall be completed and filed as required by the Tax Administrator on or before the date prescribed for the filing of state individual income tax returns under division (G) of section 5747.08 of the Ohio Revised Code. The taxpayer shall complete and file the return or notice on forms prescribed by the Tax Administrator or on generic forms, together with remittance made payable to the Municipality.

(B) Except as otherwise provided in this chapter, each annual net profit income tax return required to be filed under this section by a taxpayer that is not an individual shall be completed and filed as required by the tax administrator on or before the fifteenth day of the fourth month following the end of the taxpayer's taxable year or period. The taxpayer shall complete and file the return or notice on forms prescribed by the tax administrator or on generic forms, together with remittance made payable to the Municipality.

(C) In the case of individual income tax return required to be filed by an individual, and net profit income tax return required to be filed by a taxpayer who is not an individual, no remittance is required if the amount shown to be due is ten dollars or less.

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

(3) With respect to taxpayers to whom Section 128.092 of this Chapter applies, to the extent that any provision in this division conflicts with any provision in Section 128.092 of this Chapter, the provision in Section 128.092 of this Chapter prevails.

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

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

(1) If any report, claim, statement, or other document required to be filed, or any payment required to be made, within a prescribed period or on or before a prescribed date under this chapter is delivered after that period or that to the Tax Administrator or other municipal official with which the report, claim, statement, or other document is required to be filed, or to which the payment is required to be made, the date of the postmark stamped on the cover in which the report, claim, statement, or other document, or payment is mailed shall be deemed to be the date of delivery or the date of payment. "The date of postmark" means, in the event there is more than one date on the cover, the earliest date imprinted on the cover by the postal service.

(2) If a payment under this chapter is made by electronic funds transfer, the payment shall be considered to be made on the date of the timestamp assigned by the first electronic system receiving that payment.

(j) The amounts withheld for the Municipality by an employer, the agent of an employer, or other payer as described in Section 128.051 of this Chapter shall be allowed to the recipient of the compensation as credits against payment of the tax imposed on the recipient unless the amounts withheld were not remitted to the Municipality and the recipient colluded with the employer, agent, or other payer in connection with the failure to remit the amounts withheld.

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

(l) The Tax Administrator of the Municipality shall accept for filing a generic form of any income tax return, report, or document required by the Municipality in accordance with this Chapter, provided that the generic form, once completed and filed, contains all of the information required by ordinances, resolutions, or rules adopted by the Municipality, and provided that the taxpayer or tax return preparer filing the generic form otherwise complies with the provisions of this Chapter and of the Municipality's Ordinance or resolution governing the filing of returns, reports, or documents.

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

(n) (1) As used in this division, "worksite location" has the same meaning as in Section 128.052 of this chapter.

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

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

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

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

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

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 4. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance shall take effect and be in force immediately, or otherwise shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____



DEPARTMENT OF PLANNING & DEVELOPMENT

12650 Detroit Avenue • 44107 • (216) 529-6630 • FAX (216) 529-5936
www.onelakewood.com/development

October 10, 2016

Lakewood City Council
Lakewood, OH 44107

RE: Changes to Chapter 1306.60, Exterior Electric and Fuel Burning Cooking Devices

Dear Members of Council:

At its meeting on October 7th, 2016 the Planning Commission reviewed and recommended to Council the proposed changes to expand on the regulation in the Property Maintenance and Safety Code for exterior electric and fuel burning cooking devices. The proposed additions to Section 1306.60 aim further clarify the types of cooking devices permitted on structures above the first floor. Please find the proposed changes following this letter.

Please let me know if you have any questions.

Sincerely,

Bryce Sylvester
Planning Commission Secretary

Placed on first reading and referred to the Housing Committee 1/19/2016; second reading 2/1/2016. Additional changes recommended by Planning Commission 10/7/2016. Please substitute for the original.

ORDINANCE NO. 3-16

BY:

AN ORDINANCE amending Section 1306.60 of the Codified Ordinances of the City of Lakewood by expanding on the regulations governing exterior electric and fuel-burning cooking devices.

WHEREAS, Article 18, Section 3 of the Constitution of the State of Ohio permits municipalities to exercise all powers of local self-government and to adopt and enforce within their limits such as local police, sanitary and other regulations as are not in conflict with general laws; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Section 1306.60, Exterior Electric and Fuel Burning Cooking Devices, of the the Codified Ordinances of the City of Lakewood, currently reading as follows:

SECTION 1306.60. EXTERIOR ELECTRIC AND FUEL BURNING COOKING DEVICES.

No electric or fuel burning cooking appliance or device shall be permitted to be operated upon any porch, balcony, patio deck, roof or similar structure when such structure is located above the first floor level or if the first floor level is enclosed or covered in whole or in part by awnings, canopies, arbors, roofs and similar roof structures.

is hereby repealed.

Section 2. New Section 1306.60, Exterior Electric and Fuel Burning Cooking Devices, of the Codified Ordinances of the City of Lakewood, is hereby enacted to read as follows:

SECTION 1306.60. EXTERIOR ELECTRIC AND FUEL BURNING COOKING DEVICES.

No portable electric or fuel burning cooking appliance or device shall be permitted to be operated upon any porch, balcony, patio deck, roof or similar structure when such structure is located above the first floor level or if the first floor level is enclosed or covered in whole or in part by awnings, canopies, arbors, roofs and similar roof structures. Permanently installed appliances designed for the cooking of food for human consumption are permitted at a balcony, deck or roof approved for occupancy which does not have a balcony, deck or roof top above; and is not more than three stories above the level of the fire department access. The fuel source shall be electricity or natural gas and the appliance shall be installed per the manufacturer's written requirements; with a manual shutoff within 6-feet of the appliance; and in compliance with applicable state codes.

Section 3. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Adopted: _____

PRESIDENT

CLERK OF COUNCIL

Approved: _____

MAYOR

NOTICE TO LEGISLATIVE
AUTHORITY

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

TO

8922545 PERMIT NUMBER		TRFO TYPE	36741 INC DBA 7 ELEVEN 36741 14718 MADISON AV LAKEWOOD OHIO 44107	
10	01	2016 ISSUE DATE		
09	27	2016 FILING DATE		
C1 C2 PERMIT CLASSES				
18	286	C	F17165 RECEIPT NO.	

FROM 09/29/2016

80036070305 PERMIT NUMBER			7 ELEVEN INC DBA 7 ELEVEN 36741 14718 MADISON AV LAKEWOOD OHIO 44107	
10	01	2016 ISSUE DATE		
09	27	2016 FILING DATE		
C1 C2 PERMIT CLASSES				
18	286			



MAILED 09/29/2016

RESPONSES MUST BE POSTMARKED NO LATER THAN. 10/31/2016

IMPORTANT NOTICE

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

REFER TO THIS NUMBER IN ALL INQUIRIES **C TRFO 8922545**

(TRANSACTION & NUMBER)

(MUST MARK ONE OF THE FOLLOWING)

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

WE DO NOT REQUEST A HEARING.

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

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

(Signature)

(Title)- Clerk of County Commissioner

(Date)

Clerk of City Council

Township Fiscal Officer

CLERK OF LAKEWOOD CITY COUNCIL
12650 DETROIT AV
LAKEWOOD OHIO 44107