P/C P/C Finance 1/28/14
CA 2/25/14
1st R 3/18/14
2nd R 4/1/14
3rd R 4-15-14
B/C
Caucus 3/4/14 as amended

CITY OF BROOK PARK, OHIO

ORDINANCE NO: 9894-2014

INTRODUCED BY: MAYOR COYNE

AN ORDINANCE
AMENDING SECTIONS 1705.01, 1705.02, 1713.02(a)
OF THE BROOK PARK CODIFIED ORDINANCES
PROVIDING FOR A TWO AND ONE-HALF PERCENT (2-1/2%) INCOME TAX,
AND DECLARING AN EMERGENCY

NOW THEREFORE, BE IT ORDAINED, by the Council of the City of Brook Park, State of Ohio, that:

SECTION 1: Section 1705.01 of the Brook Park Codified Ordinances, as enacted by Ordinance No. 7490-1990, passed November 6, 1990, Ordinance No. 8748-2000, passed December 5, 2000, Ordinance No. 9047-2003, passed December 16, 2003 and reading as follows:

1705.01 RATE AND INCOME TAXABLE

Subject to the provisions of Section 1727.01 an annual tax for the purposes specified in Section 1701.01 shall be imposed on and after January 1, 1991, at the rate of two percent (2%) per annum upon the following:

(a) On all salaries, wages, commissions and other compensation earned and received, earned and accrued, or earned and deferred, and on other income not otherwise defined as intangible income or excluded by Ohio R.C. 718.01, on and after January 1, 1991, by residents of the City. All such earnings wherever earned shall be taxable, except that tax shall not be levied on expenses reported in accordance with Federal guidelines, for Federal Form 2106, subject to audit and approval by the Department of Taxation.

(b) On all salaries, wages, commissions, prizes and awards, and other compensation earned and received, earned and accrued or earned and deferred on and after January 1, 1991, by nonresidents of the City for work done or services performed or rendered within the City pursuant to rules established in Sections 1723.03 and 1725.01. All such earnings shall be taxable, except that tax shall not be levied on expenses reported in accordance with Federal guidelines for Federal Form 2106, subject to audit and approval by the Department of Taxation.

(c) (1) On the portion attributable to the City on the net profits earned on and after January 1, 1991, of all resident unincorporated businesses, pass through entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1991, of a resident partner or owner of a resident unincorporated business, pass through

entity, profession or other activity not attributable to the City and not levied against such unincorporated business entity by the City.

(d) (1) On the portion attributable to the City of the net profits earned on or after January 1, 1991, of all nonresident unincorporated businesses, pass through entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 1991, of a resident partner or owner of a nonresident unincorporated business, pass through entity or profession or other activity not attributable to the City and not levied against such unincorporated business entity by the City.

(e) On the portion attributable to the City of the net profits earned on and after January 1, 1991, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(f) An S corporation's shareholder's distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(A) of the Internal Revenue Code shall not be taxed to a greater extent than such distributive share would be allocated or apportioned to the State of Ohio under Ohio R.C. 5733.03(B)(1) and (2) if the S corporation were a corporation subject to the taxes imposed under Ohio R.C. Chapter 5733.

(g) Rental income equal to or in excess of one hundred twenty-five dollars ($125.00) per month shall be considered prima facie evidence of a business or profession.

(1) In the case of nonresidents, net profits from rental activity not consisting of a business or profession shall be subject to tax only on such property located within the City of Brook Park. Except as otherwise provided in Ohio R.C. 718.01, residents of Brook Park may be taxed to the extent allowed by the United States Constitution.

(h) In the case of a disqualifying disposition of an incentive stock option occurring as a result of employment in the City of Brook Park, the employee is responsible for paying the municipal income tax to the City of Brook Park even though no longer employed with the company issuing the option.

is hereby amended to read as follows:

1705.01 <u>RATE AND INCOME TAXABLE</u>

Subject to the provisions of Section 1727.01 an annual tax for the purposes specified in Section 1701.01 shall be imposed on and after January 1, 2015, at the rate of two and one-half percent (2-1/2%) per annum upon the following:

(a) On all salaries, wages, commissions and other compensation earned and received, earned and accrued, or earned and deferred, and on other income not otherwise defined as intangible income or

excluded by Ohio R.C. 718.01, on and after January 1, 2015, by residents of the City. All such earnings wherever earned shall be taxable, except that tax shall not be levied on expenses reported in accordance with Federal guidelines, for Federal Form 2106, subject to audit and approval by the Department of Taxation.

(b) On all salaries, wages, commissions, prizes and awards, and other compensation earned and received, earned and accrued or earned and deferred on and after January 1, 2015, by nonresidents of the City for work done or services performed or rendered within the City pursuant to rules established in Sections 1723.03 and 1725.01. All such earnings shall be taxable, except that tax shall not be levied on expenses reported in accordance with Federal guidelines for Federal Form 2106, subject to audit and approval by the Department of Taxation.

(c) (1) On the portion attributable to the City on the net profits earned on and after January 1, 2015, of all resident unincorporated businesses, pass through entities or professions or other activities, derived from sales made, work done, services performed or rendered and business or other activities conducted in the City.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 2015, of a resident partner or owner of a resident unincorporated business, pass through entity, profession or other activity not attributable to the City and not levied against such unincorporated business entity by the City.

(d) (1) On the portion attributable to the City of the net profits earned on or after January 1, 2015, of all nonresident unincorporated businesses, pass through entities, professions or other activities, derived from sales made, work done, services performed or rendered and business and other activities conducted in the City, whether or not such unincorporated business entity has an office or place of business in the City.

(2) On the portion of the distributive share of the net profits earned on and after January 1, 2015, of a resident partner or owner of a nonresident unincorporated business, pass through entity or profession or other activity not attributable to the City and not levied against such unincorporated business entity by the City.

(e) On the portion attributable to the City of the net profits earned on and after January 1, 2015, of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in the City, whether or not such corporations have an office or place of business in the City.

(f) An S corporation's shareholder's distributive share of net profits that represents wages as defined in Section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in Section 1402(A) of the Internal Revenue Code shall not be taxed to a greater extent than such distributive share would be allocated or apportioned to the State of Ohio under Ohio R.C. 5733.03(B)(1) and (2) if the S corporation were a corporation subject to the taxes imposed under Ohio R.C. Chapter 5733.

(g) Rental income equal to or in excess of one hundred twenty-five dollars ($125.00) per month shall be considered prima facie evidence of a business or profession.

(1) In the case of nonresidents, net profits from rental activity not consisting of a business or profession shall be subject to tax only on such property located within the City of Brook Park. Except as otherwise provided in Ohio R.C. 718.01, residents of Brook Park may be taxed to the extent allowed by the United States Constitution.

(h) In the case of a disqualifying disposition of an incentive stock option occurring as a result of employment in the City of Brook Park, the employee is responsible for paying the municipal income tax to the City of Brook Park even though no longer employed with the company issuing the option.

SECTION 2: Former Section 1705.02 of the Brook Park Codified Ordinances as enacted by Ordinance No. 7490-1990, passed November 6, 1990, Ordinance No. 9047-2003, passed December 16, 2003 and which reads as follows:

1705.02 EFFECTIVE PERIOD

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, compensation, and other taxable income earned and received, earned and accrued or earned and deferred, and with respect to the net profits of businesses, pass through entities, professions or other activities earned on and after January 1, 1991.

is hereby amended to read as follows:

1705.03 EFFECTIVE PERIOD

Such tax shall be levied, collected and paid with respect to the salaries, wages, commissions, compensation, and other taxable income earned and received, earned and accrued or earned and deferred, and with respect to the net profits of businesses, pass through entities, professions or other activities earned on and after January 1, 2015.

SECTION 3: Section 1713.02(a) of the Codified Ordinances of the City of Brook Park, as enacted by Ordinance No. 7490-1990, passed November 6, 1990, Ordinance No. 9047-2003, passed December 16, 2003, and reads as follows:

1713.02(a) COLLECTION AT SOURCE

(a) In accordance with rules and regulations prescribed by the Director of the Department of Taxation, each employer within or doing business within the City shall deduct at the time of the payment of salary, wage, commission or other compensation, the tax of two percent of the gross salaries, wages, commissions or other compensation earned and received, earned and accrued or earned and deferred due by the employer to employees and shall, on or before the fifteenth day of the month following the close of each month, make a return detailing the wages paid and the tax deducted, and pay to the Director the amount of taxes so deducted. Whenever the

fifteenth day of the month falls on a weekend or Federal holiday, the payment shall not be considered late if paid on the next business day following such weekend or holiday. Such returns shall be on a form or forms prescribed by or acceptable to the Director and shall be subject to rules and regulations prescribed therefor by the Director. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. Nothing in this section prohibits an employer from paying on a basis more frequent than monthly.

is hereby amended to read as follows:

1713.02(a) COLLECTION AT SOURCE

(a) In accordance with rules and regulations prescribed by the Director of Finance/Taxation, each employer within or doing business within the City shall deduct at the time of the payment of salary, wage, commission or other compensation, the tax of two and one-half percent (2-1/2%) of the gross salaries, wages, commissions or other compensation earned and received, earned and accrued or earned and deferred due by the employer to employees and shall, on or before the fifteenth day of the month following the close of each month, make a return detailing the wages paid and the tax deducted, and pay to the Director the amount of taxes so deducted. Whenever the fifteenth day of the month falls on a weekend or Federal holiday, the payment shall not be considered late if paid on the next business day following such weekend or holiday. Such returns shall be on a form or forms prescribed by or acceptable to the Director and shall be subject to rules and regulations prescribed therefor by the Director. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld. Nothing in this section prohibits an employer from withholding tax on a basis greater than qualifying wages. Nothing in this section prohibits an employer from paying on a basis more frequent than monthly.

SECTION 4 Sections 1705.01, 1705.02 and 1713.02(a) of the Codified Ordinances of the City of Brook Park as they have heretofore existed be and the same are hereby repealed contingent upon the majority affirmative vote of the electorate adopting the increase in tax rate as provided in Section 1 hereof occurring at the August 5, 2014 Special Election, provided, however, that no provision of this Ordinance shall in any way affect any previous rights or obligations of the City, any taxpayer, or any other person, official or entity, with respect to the two percent (2%) municipal income tax rate authorized in Section 1705.01 of the Codified Ordinances of the City of Brook Park as it presently exists.

SECTION 5: The Clerk of Council be and is hereby authorized and directed to certify a copy of this Ordinance to the Cuyahoga County Board of Elections, with a request that the same be placed on the August 5, 2014, Special Election Ballot as provided by law.

SECTION 6: It is found and determined that all formal actions of this Council concerning and relating to the adoption of this Ordinance were adopted in an open meeting of this Council, and that all deliberations of this Council and of any of its committees that resulted in such formal action were in meeting open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

SECTION 7: This Ordinance is hereby declared to be an emergency measure immediately necessary for the preservation of the public peace, health, safety and welfare of said City, and for the further reason of the necessity to meet the filing deadlines of the Cuyahoga County Board of Elections for the August 5, 2014 election ballot; therefore, this Ordinance shall take effect and be in force immediately from and after its passage and approval by the Mayor.

PASSED: April 15, 2014

Dennis M. Patton
PRESIDENT OF COUNCIL

ATTEST: Michelle Blazak
Clerk of Council

APPROVED: [signature]
MAYOR

4/13/2014
DATE

I HEREBY APPROVE THE WITHIN INSTRUMENT AS TO LEGAL FORM AND CORRECTNESS

[signature]
DIRECTOR OF LAW

CERTIFICATE

Michelle Blazak, Clerk of Council, of the City of Brook Park, Ohio, do hereby certify that the foregoing is a true and accurate copy of Ordinance/Resolution No. 9894-2014 passed on the 15th day of APRIL 20 14 by said council.

Michelle Blazak
Clerk of Council

Michelle Blazak [illegible] for the City of Brook Park, State of [illegible] Road, [illegible] days.

Commencing April 16, 2014

Michelle Blazak
MICHELLE BLAZAK
Clerk of Council