

ORDINANCE NO. 080-09

AN ORDINANCE AMENDING §193.21 OF THE CODIFIED ORDINANCES OF THE CITY OF NAPOLEON, OHIO BY CONTINUING THE ONE-FIFTH PERCENT (.2%) PER ANNUM TAX FOR THE RECREATION FUND ON COMPENSATION AND NET PROFITS EARNED OR RECEIVED ON AND AFTER JANUARY 1, 2011, AS A PERMANENT TAX, BEING LEVIED ON THE SAME AS DEFINED AND LEVIED UPON IN SECTIONS 193.01 THROUGH 193.20 OF THE CITY CODE (CONTINUANCE BEING SUBJECT TO APPROVAL BY VOTE OF THE ELECTORS OF THE CITY ON THE QUESTION); RESTRICTING THE USE OF SAID TAX; AUTHORIZING RULES AND REGULATIONS AND THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF THE TAX, AND DECLARING PENALTIES FOR VIOLATIONS

WHEREAS, the current tax levy that provides funds for the Recreational Fund of the City will expire December 31, 2010; and,

WHEREAS, both the Parks and Recreation Board and Council desire to have adequate recreation in the City and believe that in order to accomplish the same there is a continued need for additional funds and therefore, a necessity to permanently continue the tax levy; Now Therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NAPOLEON, OHIO:

Section 1. §193.21 (Tax for Recreation Fund) shall be amended and enacted as follows:

(a) Purpose. To provide funds for the Recreation Fund of the City, there shall be, and is hereby continued levied, ~~for a specific period of time~~, **IN ADDITION TO THE GENERAL INCOME TAX AS FOUND IN SECTION 193.02 OF THE CITY'S CODIFIED ORDINANCES**, a **PERMANENT** tax on certain compensation and net profits as hereinafter provided in this section.

(b) Imposition of Tax. The additional annual tax for the purpose specified in subsection (a) hereof is levied at the rate of one-fifth percent (.2%) per annum on all salaries, wages, **COMMISSIONS** and other compensation and net profits earned or received ~~on and after January 1, 1996~~ as the same are defined and levied upon in Sections 193.01 ~~to~~ **THROUGH** 193.20, **BOTH SECTIONS INCLUSIVE**, and as such sections may be amended from time to time.

(c) Effective Period. The tax shall be levied, collected and paid with respect to said salaries, wages, **COMMISSIONS** and other compensation and net profits earned or received on and after ~~January 1, 1996 to and including December 31, 2010~~ **JANUARY 1, 2011**. ~~However, when the fiscal year of a taxpayer is other than the calendar year, said tax shall be levied~~ **AND IN ACCORDANCE WITH SECTION 193.04**, ~~upon that part of the net profits for the fiscal year which are earned on and after January 1, 1996 until the close of the taxpayer's fiscal year, and thereafter, shall be levied on the taxpayer's fiscal year basis through the period of time~~

~~authorized by this section.~~ This section shall continue effective insofar as the levy of said tax is concerned ~~to and including December 31, 2010~~ **UNTIL OTHERWISE REPEALED**. Insofar as the collection of said tax, penalties and interest levied hereunder and actions or proceedings for collecting said tax so levied or enforcing any provisions of this section are concerned, **INCLUDING THE TAX FOR THE RECREATION FUND THAT WAS IN EFFECT PRIOR TO AMENDMENT OF THIS SECTION THAT COVERED A PERIOD FROM JANUARY 1, 1996**, it shall continue effective until all of said tax levied under this section is fully paid and any and all suits and prosecutions for the collection of said tax or for the punishment of violations of this section have been fully terminated.

(d) Allocation of Funds. The funds collected under this section shall be paid into the Recreation Fund of the City. No part of said tax shall be appropriated or used to defray the costs of collecting said tax or the costs of administering and enforcing the provisions of this section as long as the City is collecting a sufficient amount of income tax under Sections 193.01 through 193.20, **BOTH SECTIONS INCLUSIVE**, (as they now exist or as may later be amended from time to time) to defray such costs. If at any time while this section is in effect, said tax becomes the only income tax collected by the City, there shall first be appropriated from the funds derived from said tax such part thereof as shall be deemed necessary to defray all costs of collecting said tax and of administering and enforcing the provisions hereof. The balance remaining after such costs shall be allocated to the Recreation Fund of the City.

(e) Incorporated by Reference. All provisions of Sections 193.01 ~~to~~ **THROUGH** 193.20, **BOTH SECTIONS INCLUSIVE, AND 193.98 AND 193.99**, and all income tax rules and regulations shall govern and apply to this section and said tax levied hereunder.

(f) Applicability. This section shall not apply to any person or to any compensation or net profits as to whom or to which it is beyond the power of the City to impose the tax provided for in this section.

(g) Penalties. The penalties found in Sections 193.98 and 193.99 shall apply to this section, such sections which may be amended from time to time.

Section 2. That, it is found and determined that all formal actions of this City Council concerning and relating to the adoption of this Ordinance were adopted in open meetings of this City Council, and that all deliberations of this City Council and any of its committees that resulted in such formal actions were in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code and the Codified Ordinances of Napoleon Ohio.

Section 3. That, if any other prior Ordinance or Resolution is found to be in conflict with this Ordinance, then the provisions of this Ordinance shall prevail. Further, if any portion of this Ordinance is found to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this Ordinance or any part thereof.

Section 4. That, this Ordinance shall go into effect on January 1, 2011, subject to approval by a majority of the electors of the City voting on the question at the primary or special election to be held on May 4, 2010.

Section 5. That, Section 193.21 of the Codified Ordinances of Napoleon, Ohio, as existed prior to the enactment of this Ordinance shall be repealed upon the effective date of this Ordinance.

Passed: December 7, 2009


Glenn A. Miller, Council President

Approved: 7 DECEMBER 09


J. Andrew Small, Mayor

VOTE ON PASSAGE 6 Yea Nay Abstain

Attest:


Gregory J. Heath, Clerk/Finance Director

I, Gregory J. Heath, Clerk/Finance Director of the City of Napoleon, do hereby certify that the foregoing Ordinance No. _____ was duly published in the Northwest Signal, a newspaper of general circulation in said City, on the _____ day of _____, _____; & I further certify the compliance with rules established in Chapter 103 of the Codified Ordinances Of Napoleon Ohio and the laws of the State of Ohio pertaining to Public Meetings.

Gregory J. Heath, Clerk/Finance Director

