RESOLUTION NO. R-02-25

A RESOLUTION SUBMITTING TO THE ELECTORS OF THE CITY, PURSUANT TO ARTICLE IV, SECTION 17 OF THE AVON CITY CHARTER AND CHAPTER 718 OF THE OHIO REVISED CODE, THE QUESTION OF AMENDING SECTIONS 881.01, 881.03, AND 881.04 OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE THE CITY'S MUNICIPAL INCOME TAX RATE FROM 1.75% TO 1.95% FOR THE PURPOSE OF PROVIDING FUNDS FOR CAPITAL AND OPERATING EXPENDITURES OF THE POLICE AND FIRE DEPARTMENTS OF THE CITY OF AVON AND TO AMEND SECTION 881.06 OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE THE CREDIT FOR MUNICIPAL INCOME TAXES PAID BY RESIDENTS OF THE CITY TO ANOTHER MUNICIPALITY FROM 1.50% TO 1.70%; AND DECLARING AN EMERGENCY

WHEREAS, the City of Avon, Ohio (the "City") currently levies a municipal income tax at the rate of 1.75% on all persons residing in, or earning or receiving income in, the City; and

WHEREAS, the City has experienced significant growth over the past 25 years, including increases in population and the rapid expansion of residential, industrial, and commercial development within the City; and

WHEREAS, the City's significant growth has increased the need for additional safety services and resources in the City in order to rapidly respond to emergencies within the City and to assist with emergencies in neighboring municipalities; and

WHEREAS, considering the dramatic increase in population and growth in residential, industrial and commercial development within the City these past 25 years, Council desires to place on the ballot a proposed increase in the City's municipal income tax rate from 1.75% to 1.95% with such 0.20% increase in the municipal income tax rate being used for the purpose of providing funds for the construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities; the purchase or lease of safety vehicles and equipment and the other operating expenses of the police and fire departments, including the payment of acquisition, engineering and legal costs and the payment of principal and interest on bond, notes or other obligations incurred to finance such expenditures; and

WHEREAS, in tandem with the proposed municipal income tax increase, this Council desires to increase the credit for income taxes paid by residents of the City to other municipalities from 1.50% to 1.70%; and

WHEREAS, the City would like to reduce the property tax burden of residents by not renewing or replacing the following levies upon their expiration if the proposed income tax increase is approved by the voters: 1984 Police Operating Levy of 2.0 mills, 2007 Police Equipment Levy of 0.50 mills and the 2017 Fire Equipment Levy of 0.50 mills; and

WHEREAS, Article IV, Section 17 of the City Charter provides that Council may not adopt any ordinance or resolution that changes the municipal income tax rate for persons having income taxable within the City, or changing the percentage of credit allowable to residents of the

City having income taxable in another municipality, unless such ordinance or resolution has first been submitted to the electors of the City and approved by a majority of the electors voting thereon at any general, regular, or special election; and

WHEREAS, Section 718.04(C)(2), Ohio Revised Code, provides that no municipal corporation shall levy a tax on income at a rate in excess of one percent without having obtained the approval of the excess by a majority of the electors of the municipality voting on the question at a general, primary, or special election; and

WHEREAS, Council deems it in the best interest of the health, safety and welfare of the citizens of Avon that the issue of an income tax increase be placed on the May 6th, 2025 ballot for consideration by the electors of the City.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF AVON, LORAIN COUNTY, OHIO:

Section 1. There shall be submitted to the electors of the City, pursuant to Article IV, Section 17 of the Charter of the City and Chapter 718 of the Ohio Revised Code, at the next special election to be held May 6th, 2025 at the regular places of voting between the hours of 6:30 A.M. and 7:30 P.M., the question of approving the passage of an ordinance to amend certain sections of Chapter 881 of the City's Codified Ordinances to:

(a) provide for an increase in the City's municipal income tax rate from 1.75% to 1.95% beginning January 1, 2026 for the purpose of providing funds for the construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities; the purchase or lease of safety department vehicles and equipment; and the other operating expenditures of the police and fire departments, including the payment of acquisition, engineering, and legal costs, and the payment of the principal and interest on bonds, notes or other obligations incurred to finance such expenditures.

(b) increase the tax credit provided to residents of the City on income tax paid to other municipalities from 1.50% to 1.70% of the taxable income earned attributable to the municipality of employment or business activity effective January 1, 2026.

Section 2. The proposed Ordinance to be submitted to the electors of the City for their approval under this Resolution is attached as ***Exhibit A*** (the "Income Tax Ordinance"), which is incorporated in this Resolution by reference and shall be a part of this Resolution.

Section 3. The increased income tax revenue received by the City generated by the approval of the Income Tax Ordinance by the electors shall be paid into the Special Revenue Funds of the Police and Fire Departments (already in existence) and used to provide funds for the construction, renovation or improvement of safety department facilities, including the purchasing or leasing of real property for said facilities, the purchase or lease of safety department vehicles and equipment; and other operating expenditures of the police and fire departments, including the payment of acquisition, engineering, and legal costs, and the payment of the principal of, and interest and any premium on, any bonds, notes, or other obligations incurred issued for any of those purposes.

Section 4. The ballot for the May 6th, 2025 election shall be entitled "Amendments of Ordinances Relating to Taxable Income" and the question to be submitted on the ballot shall be:

Shall the Ordinance providing for an increase in the municipal income tax rate from the rate of 1.75% to 1.95% beginning January 1, 2026 for the purpose of providing funds for the construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities, the purchase or lease of safety department vehicles and equipment; and other operating expenditures of the police and fire departments, including the payment of acquisition, engineering, and legal costs, and the payment of the principal and interest on any bonds, notes, or other obligations incurred to finance such expenditures and amending the tax credit allowed to residents on income tax paid to other municipalities to be set at 1.70% beginning January 1, 2026 be passed?

FOR THE INCOME TAX	
AGAINST THE INCOME TAX	

The Mayor and the Director of Law, with the advice of the City's outside legal counsel, are each authorized to further or differently summarize the language of the proposed amendment for purposes of creating an appropriate ballot if requested or required by the Lorain County Board of Elections, the Ohio Secretary of State, or others.

Section 5. That the Clerk of Council is directed to certify a copy of this Resolution and the Income Tax Ordinance to the Board of Elections of Lorain County before the close of business on February 5, 2025. The Clerk of Council is further directed to take all other action required by law relative to the submission of the proposed ballot issue at that election.

Section 6. If the electors should fail to approve the passage of the Income Tax Ordinance at the election on May 6th, 2025, such failure shall not in any way affect any rights or obligations of the City, any taxpayer, or any other person, official, or entity with respect to the existing 1.75% municipal income tax or the 1.50% credit for income taxes paid by City residents to other municipalities authorized by Chapter 881 of the City's Codified Ordinances.

Section 7. If the electors should approve the passage of the Income Tax Ordinance at the election on May 6th, 2025, City Council shall forthwith pass legislation to provide for the non-renewal or replacement of the following levies: 1984 Police Operating Levy of 2.0 mills, 2007 Police Equipment Levy of 0.50 mills and the 2017 Fire Equipment Levy of 0.50 mills.

Section 8. That 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 deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 9. That this Resolution is hereby declared to be an emergency measure necessary for the preservation of the public peace, health, safety, and welfare of the citizens of the City, and for the further reason that this Resolution must be immediately effective so that this Resolution can be timely filed with the Lorain County Board of Elections on or before February 5, 2025 in order that this issue be submitted to the electors of the City at the May 6th, 2025 election; therefore, this Resolution shall be in full force and effect immediately upon its adoption and approval by the Mayor.

PASSED: January 27, 2025 DATE SIGNED: January 27, 2025

By: Brian Fischer

Brian Fischer, Council President

DATE APPROVED BY THE MAYOR January 28, 2025

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior

John A. Gasior, Law Director

ATTEST:

Barbara Brooks

Barbara Brooks, Clerk of Council

POSTED: January 29, 2025

In Five Places as
Provided by Council

Prepared by:
John A. Gasior, Esq.
Law Director

I, Barbara J. Brooks, Clerk of the Council of the City of Avon, Ohio, hereby certify this document to be a true and exact copy of Resolution No. R-02-25, passed by the Council of said City on January 27, 2025.

IN WITNESS WHEREOF, I have on this 28th day of January 2025, affixed my signature and official seal.

Barbara J. Brooks

Barbara J. Brooks, Clerk of the Council
of the City of Avon, Ohio

EXHIBIT A to R-02-25
(Income Tax Ordinance)

AN ORDINANCE AMENDING SECTIONS 881.01, 881.03, AND 881.04 OF THE CITY'S CODIFIED ORDINANCES TO PROVIDE FOR THE INCREASE OF THE CITY'S MUNICIPAL INCOME TAX RATE FROM THE CURRENT RATE OF 1.75% TO A RATE OF 1.95% COMMENCING JANUARY 1, 2026 FOR THE PURPOSE OF PROVIDING FUNDS FOR CAPITAL AND OPERATING EXPENDITURES OF THE POLICE AND FIRE DEPARTMENTS OF THE CITY OF AVON AND TO AMEND SECTION 881.06 OF THE CODIFIED ORDINANCES OF THE CITY TO INCREASE THE CREDIT FOR MUNICIPAL INCOME TAXES PAID BY RESIDENTS OF THE CITY TO ANOTHER MUNICIPALITY FROM 1.50% TO 1.70%; AND DECLARING AN EMERGENCY.

WHEREAS, this Council finds that it is necessary to (a) increase the City's municipal income tax from 1.75% to 1.95% for the purpose of providing funds for the construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities; the purchase or lease of safety vehicles and equipment; and the other operating expenses of the police and fire departments, including the payment of principal and interest on debt incurred to finance such expenditures; and (b) increase the credit for municipal income taxes paid by residents of the City to another municipality from 1.50% to 1.70%; and

WHEREAS, it is necessary to amend Sections 881.01, 881.03, 881.04, and 881.06 to provide for the increased income tax and the increase in the municipal income tax credit provided to residents in the City that pay income taxes to another municipality;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF AVON, COUNTY OF LORAIN AND STATE OF OHIO, THAT:

Section 1. Section 881.01 of the Codified Ordinances of the City which **presently reads** as follows:

881.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX.

(a) To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements, City hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as provided in this chapter.

(b)(1) The annual tax is levied at a rate of 1.75% (one and seventy-five hundredths percent). The tax is levied at a uniform rate on all persons residing in or earning or receiving income in City. The tax is levied on income, qualifying wages, commissions and other compensation and on net profits as hereinafter provided in Section 881.03 of this chapter and other sections as they may apply.

(2) The funds collected under the provisions of this chapter shall be applied for the following purposes:

A. Such part thereof as is necessary to defray all costs of collecting the taxes levied by this chapter and the cost of administering and enforcing the provisions of this chapter shall first be paid.

B. After providing for the allocation of funds set forth in subsection (a) hereof, 100 percent of the funds collected after April 1, 1978, shall be set aside and used for the purposes of meeting current expenses and other expenditures of the General Fund, and for such other purposes as may be determined by Council, with the exception of:

1. Construction of a fire station and operation of a full-time fire department, capital improvements for and operations of the fire department and police department, which makes up 0.50% of the 1.75%.

2. Construction and/or acquisition of a recreational facility, including but not limited to, a swimming facility, baseball diamonds, soccer fields and all appurtenances thereto, land acquisition within the City of Avon, services to the area of the recreation complex, installation, relocation and/or acquisition of utilities, sidewalks, bike paths, landscaping and other public infrastructure improvements which will serve the proposed development together with engineering and legal costs, operating costs, maintenance, the purchase of new and/or used equipment, extending and/or enlarging new or existing services and facilities an such other capital improvements related thereto, which makes up 0.25% of the 1.75%. See above.

(c) The tax on income and the withholding tax established by this Chapter 881 are authorized by Article XVIII, Section 880.03 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio R.C. Chapter 718.

is hereby amended to read as follows: (New text in bold and underlined.)

881.01 AUTHORITY TO LEVY TAX; PURPOSE OF TAX

(a) To provide funds for the purposes of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal services and facilities and capital improvements, City hereby levies an annual municipal income tax on income, qualifying wages, commissions and other compensation, and on net profits as provided in this chapter.

(b)(1) The annual tax is levied at a rate of **1.95%** (one and **ninety-five** hundredths percent) **for tax years beginning on and after January 1, 2026, and at the rate of 1.75% (one and seventy-five hundredths percent) for tax years prior to January 1, 2026.** The tax is levied at a uniform rate on all persons residing in or earning or receiving income in City. The tax is levied on income, qualifying wages, commissions and other compensation and on net profits as hereinafter provided in Section 881.03 of this chapter and other sections as they may apply.

(2) The funds collected under the provisions of this chapter shall be applied for the following purposes:

A. Such part thereof as is necessary to defray all costs of collecting the taxes levied by this chapter and the cost of administering and enforcing the provisions of this chapter shall first be paid.

B. After providing for the allocation of funds set forth in subsection (a) hereof, 100 percent of the funds collected after April 1, 1978, shall be set aside and used for the purposes of meeting current expenses and other expenditures of the General Fund, and for such other purposes as may be determined by Council, with the exception of:

1. Construction of a fire station and operation of a full-time fire department, capital improvements for and operations of the fire department and police department, which makes up 0.50% of the **1.95% for tax years beginning on and after January 1, 2026, and 0.50% of the 1.75% for tax years prior to January 1, 2026.**

2. Construction and/or acquisition of a recreational facility, including but not limited to, a swimming facility, baseball diamonds, soccer fields and all appurtenances thereto, land acquisition within the City of Avon, services to the area of the recreation complex, installation, relocation and/or acquisition of utilities, sidewalks, bike paths, landscaping and other public infrastructure improvements which will serve the proposed development together with engineering and legal costs, operating costs, maintenance, the purchase of new and/or used equipment, extending and/or enlarging new or existing services and facilities and such other capital improvements related thereto, which makes up 0.25% of the **1.95% for tax years beginning on and after January 1, 2026, and 0.25% of the 1.75% for tax years prior to January 1, 2026**.

3. Construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities; the purchase or lease of safety vehicles and equipment and the other operating expenses of the police and fire departments, including the payment of acquisition, engineering and legal costs; and payment of the principal and interest on debt incurred to finance such expenditures which makes up 0.20% of the 1.95% beginning on and after January 1, 2026.

(c) The tax on income and the withholding tax established by this Chapter 881 are authorized by Article XVIII, Section 880.03 of the Ohio Constitution. The tax is levied in accordance with, and is intended to be consistent with, the provisions and limitations of Ohio R.C. Chapter 718.

Section 2. Section 881.03 of the Codified Ordinances of the City of Avon which **presently reads** as follows:

881.03 IMPOSITION OF TAX.

The income tax levied by City at a rate of 1.75 percent [1.75%] is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in City…

Is hereby amended to read as follows: (New text in bold and underlined.)

881.03 IMPOSITION OF TAX.

The income tax levied by City at a rate of **<u>1.95%</u>** percent is levied on the Municipal Taxable Income of every person residing in and/or earning and/or receiving income in **<u>the</u>** City **<u>for tax years beginning on and after January 1, 2026.</u>**

<u>Section 3</u>. Section 881.04(a)(1) of the Codified Ordinances of the City of Avon which **<u>presently reads</u>** as follows:

881.04 COLLECTION AT SOURCE.

(a) Withholding Provisions.

(1) Each employer, agent of an employer, or other payer located or doing business in City shall withhold an income tax from the qualifying wages earned and/or received by each employee in City. Except for qualifying wages for which withholding is not required under Section 881.03 or division (a)(2)D. or F. of this section, the tax shall be withheld at the rate, specified in Section 881.01 of this chapter, of 1.75%. 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.

Is hereby amended to read as follows: (New text in bold and underlined.)

881.04 COLLECTION AT SOURCE.

(a) Withholding Provisions.

(1) Each employer, agent of an employer, or other payer located or doing business in City shall withhold an income tax from the qualifying wages earned and/or received by each employee in City. Except for qualifying wages for which withholding is not required under Section 881.03 or division (a)(2)D. or F. of this section, the tax shall be withheld at the rate, specified in Section 881.01 of this chapter, of **<u>1.95% for tax years beginning on and after January 1, 2026</u>**. 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.

<u>Section 4</u>. Section 881.06(a) of the Codified Ordinances of the City of Avon which **<u>presently reads</u>** as follows:

881.06 CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES.

(a) Every individual taxpayer domiciled in City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality.

Subject to division (c) of this section, the credit shall not exceed 100% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the lower of the tax rate in such other municipality or the rate of 1.50%.

Is hereby amended to read as follows: (New text in bold and underlined.)

(a) Every individual taxpayer domiciled in City who is required to and does pay, or has acknowledged liability for, a municipal tax to another municipality on or measured by the same income, qualifying wages, commissions, net profits or other compensation taxable under this chapter may claim a nonrefundable credit upon satisfactory evidence of the tax paid to the other municipality. Subject to division (c) of this section, the credit shall not exceed 100% of the amount obtained by multiplying the income, qualifying wages, commissions, net profits or other compensation subject to tax in the other municipality by the lower of the tax rate in such other municipality or the rate of **1.70% for tax years beginning on and after January 1, 2026.**

Section 5. That 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 deliberations of this Council and of any of its committees that resulted in such formal actions were in meetings open to the public, in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Section 6. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the City, and for the further reason that this Ordinance must be immediately effective to enable the City to levy and collect the municipal income tax at the rate set forth in this Ordinance to provide funds for the construction, renovation or improvement of safety department facilities, including the purchase or lease of real property for said facilities; the purchase or lease of safety vehicles and equipment and the other operating expenses of the police and fire departments, including the payment of acquisition, engineering and legal costs; and payment of the principal and interest on debt incurred to finance such expenditures which makes up 0.20% of the 1.95% and to increase the credit for municipal income taxes paid by residents of the City to another municipality from 1.50% to 1.70%; therefore, this Ordinance shall be in full force and effect immediately upon passage and certification by the Board of Elections following the special election on May 6th, 2025.

APPROVED AS TO FORM:

John A. Gasior

John A. Gasior, Law Director

Posted: January 29, 2025

Electronically and at City Hall as
Provided by Council