

Prepared:  
Introduced:  
Revised:  
Adopted:  
Effective:

**ORDINANCE O-\_\_-2018**

**AN ORDINANCE TO AMEND CHAPTER 181 OF THE CITY INCOME TAX CODE TO ADOPT SECTIONS 718.80 THROUGH 718.95 OF THE OHIO REVISED CODE, AND DECLARING AN EMERGENCY WAIVING THE THIRTY-DAY WAITING PERIOD**

**WHEREAS**, House Bill (H.B.) 49 of the 132nd General Assembly, the State's general appropriations bill for the biennium, includes Section 803.100 purporting to require that municipalities, on or before January 31, 2018, adopt certain municipal income tax provisions that are also adopted within H.B. 49 to authorize State officials to collect and administer municipal net profits taxes; and

**WHEREAS**, Section 803.100 of H.B. 49 references and relies upon Section 718.04(A) of the Ohio Revised Code, which purports to make municipal income taxing authority conditional upon a municipality's adoption of code sections as dictated by the State; and

**WHEREAS**, although the municipal income tax provisions of H.B. 49, and Section 718.04(A) of the Ohio Revised Code, violate the Home Rule Amendment, the City nevertheless is compelled to adopt H.B. 49's municipal income tax provisions, on or before January 31, 2018, to avoid any doubt or taxpayer challenge as to its ability to impose a municipal income tax under the terms of Section 803.100 of H.B. 49 and Section 718.04(A) of the Ohio Revised Code; and

**WHEREAS**, the City is a party to ongoing litigation seeking a declaration that the H.B. 49 municipal income tax provisions, Section 718.04(A) of the Ohio Revised Code, and other provisions of Ohio law that usurp the powers of local self-government are unconstitutional, and to enjoin all actions by state officials to implement the H.B. 49 municipal income tax provisions; and

**WHEREAS**, the City, by enacting this Ordinance, does not concede the legality of H.B. 49's municipal income tax provisions, Section 718.04(A) of the Ohio Revised Code, or any other law that is subject to the suit in which the City is participating, and reserves its right to continue prosecution of that lawsuit.

**NOW, THEREFORE, BE IT ORDAINED** by Council for the \_\_\_\_\_, County of \_\_\_\_\_, State of Ohio, that:

**SECTION 1.** That Chapter 181 of the City's Codified Ordinances, entitled "Income Tax" is hereby amended to read as set forth in Exhibit A, attached hereto and incorporated by reference herein.

**SECTION 2.** That the City Council hereby expressly finds and determines that it does not concede the legality of H.B. 49's municipal income tax provisions; Section 803.100 of H.B. 49; Section 718.04(A) of the Ohio Revised Code; or any other law that is the subject of the action pending in Case Number 2017 CV 10258 in the Franklin County Court of Common Pleas, and that the City reserves its rights to continue its participation in and prosecution of said litigation, and any other litigation challenging the State's authority to dictate municipal tax collection and administration, and that adoption of this Ordinance shall not prejudice the claims of the City therein.

**SECTION 3.** It is hereby found and determined that all formal actions of this council concerning and relating to the adoption of this legislation were adopted in an open meeting of Council, and that all deliberations of the council and/or any of its committees that resulted in such formal action were in meetings open to the public, in compliance with all legal requirements, including Section 121 of the Ohio Revised Code.

**SECTION 4.** That this Ordinance is declared to be emergency legislation, (waiving the thirty (30) day waiting period) necessary for the immediate preservation of the public peace, health, and safety, which shall be effective upon passage, such emergency arising from the coercive provisions of law found in H.B. 49 and Section 718.04(A) of the Ohio Revised Code and the need for the City to preserve its taxing authority in the event that the H.B. 49 municipal income tax provisions and Section 718.04(A) of the Ohio Revised Code are not declared to be unconstitutional.

**SECTION 5.** That if any provision of the H.B 49 municipal income tax provisions is found unconstitutional, or is stayed or enjoined as a result of the litigation referenced in Section 2 herein, that the corresponding amendment adopted in Section 1 of this Ordinance shall likewise be stayed.

**CERTIFIED AS ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

**Attest:**

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Clerk of Council

**Approved as to form:**

\_\_\_\_\_  
Law Director