

1st reading 2-22-18
2nd reading 2-26-18

RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. 2018-13

Passed February 26, 2018

ORDINANCE NO. 2018- 13

TO AMEND THE CITY INCOME TAX CODE TO ADOPT SECTIONS 718.80 THROUGH 718.95 OF THE OHIO REVISED CODE; AND DECLARING AN EMERGENCY

WHEREAS in House Bill (H.B.) 49 of the 132nd General Assembly, the State's general appropriations bill for the biennium, includes uncodified 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 on December 21, 2017, Judge David Cain of the Franklin County Court of Common Pleas issued an order in Franklin County Common Pleas Case Number 17CV 10258 extending the deadline set by Section 803.100 of H.B. 49 to February 24, 2018; and

WHEREAS on February 12 and 13, 2018, Judge Cain held a hearing on the motion for preliminary injunction made by the coalition of municipalities challenging H.B. 49's municipal income tax provisions, and the Judge stated his intention to issue a decision prior to February 24, 2018; 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 of Northwood nevertheless is compelled to adopt H.B. 49's municipal income tax provisions, on or before February 24, 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 of Northwood is a party to the 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 of Northwood, 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 of Northwood is participating, and reserves its right to continue prosecution of that lawsuit;

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF NORTHWOOD, WOOD COUNTY, OHIO:

SECTION 1. In order to secure the continued enforcement and collection of municipal taxes, City Council amends Chapter 880 of the Codified Ordinances of City of Northwood, Ohio as shown on Exhibit "A", attached hereto and incorporated herein by reference. The addition and deletions to Chapter 880, as shown and identified in track changes in the attached Exhibit "A", are approved and shall be incorporated into Chapter 880 of the City's Codified Ordinances, pursuant to Section 2 below, for tax years starting on or after January 1, 2018.

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SECTION 2. That the City of Northwood 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 of Northwood 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 of Northwood therein.

SECTION 3. That if any provision of the H.B 49 municipal income tax provisions is found unconstitutional, or is stayed or enjoined, that the provisions adopted in Section 1 of this Ordinance shall likewise be stayed.

SECTION 4. It is hereby found and determined that all formal actions of Council concerning or relating to the passage of this Resolution were adopted in an open meeting of Council, and that all deliberations of this Council and any of its committees, that resulted in such formal actions, were in meetings open to the public in compliance with all legal requirements of the City of Northwood and the State of Ohio.

SECTION 5. That this Ordinance is declared to be emergency legislation, necessary for the immediate preservation of the public peace, health, and safety, which shall be effective February 24, 2018, 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 of Northwood 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.

Vote to suspend rules: For: 6 Against: 0

Vote on emergency clause: For: 6 Against: 0

Vote on final adoption: For: 6 Against: 0

ADOPTED 2/26/18 As an emergency measure.

ATTEST:

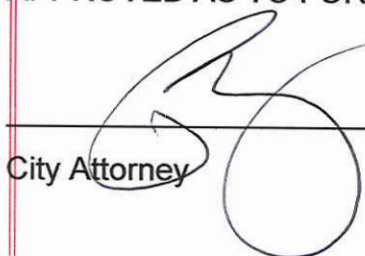


Clerk of Council



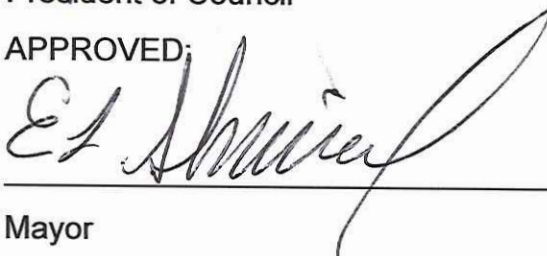
President of Council

APPROVED AS TO FORM:



City Attorney

APPROVED:



Mayor