

Consideration	<u>70</u>
First Reading	<u>70</u>
Second Reading	<u>70</u>
Third Reading	<u>70</u>
Suspend Rules	<u>70</u>
Passage	<u>70</u>

ORDINANCE NO. 19, 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 TO WAVE THE THIRTY-DAY WAITING PERIOD AND DECLARING AN EMERGENCY

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 THE COUNCIL OF THE CITY OF EAST LIVERPOOL, COUNTY OF COLUMBIANA, STATE OF OHIO:

**SECTION 1:** That Chapter 187 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

Passed this 5<sup>th</sup> day of March, 2018

  
JOHN TORMA, President of Council

APPROVED AS TO FORM:

Charles L. Payne  
Law Director

Attest:



\_\_\_\_\_  
PATRICK SCAFIDE, Clerk of Council

Approved by the Mayor this 8<sup>th</sup> day of March, 2018.

  
\_\_\_\_\_  
RYAN C. STOVALL, Mayor

Requested by: Linda Harpold, Income Tax Commissioner  
Sponsored by: Finance/Labor Committee  
Prepared by: Charles L. Payne, Law Director

Exhibit A

This Council pursuant to House Bill (H.B.) 49 of the 132<sup>nd</sup> General Assembly hereby amends Chapter 187 (Municipal Income Tax Effective January 1, 2016) of the East Liverpool Codified Ordinances consistent with the requirements and provisions of House Bill (H.B.) 49 to carry the applicable provisions of House Bill (H.B.) 49 into law.

Council acknowledges that House Bill (H.B.) 49 is in excess of three thousand pages and the portions of the Bill that pertain to Municipal Income Tax are in excess of sixty pages and additional time is required to make the necessary language changes in the City's Codified Ordinances.

This Council therefore instructs the City Tax Commissioner and City Law Director to prepare the necessary language implementing the changes to the City Tax Code required by House Bill (H.B.) 49. Language implementing the changes to the City Tax Code as required by House Bill (H.B.) 49 shall be presented to this Council within forty-five days by separate ordinance with the effective date of January 31, 2018.