

ORDINANCE NO. 96-17

AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENGAGE THE LAW FIRM OF WALTER/HAVERFIELD JOINTLY WITH THE REGIONAL INCOME TAX AGENCY AND OTHER MUNICIPALITIES FOR PURPOSES OF INITIATING LITIGATION TO CHALLENGE THE CONSTITUTIONALITY OF AMENDMENTS TO CHAPTER 718 OF THE OHIO REVISED CODE RELATING TO MUNICIPAL INCOME TAX AND DECLARING AN EMERGENCY.

WHEREAS, the City of Avon recognizes, as a home rule power of local self-government, that municipal income tax administration and collection is vital to the health, safety and welfare of the municipality; and

WHEREAS, the Avon relies on the revenue from effective municipal income tax administration and collection to provide the services that maintain the health, safety and welfare of the municipality; and

WHEREAS, the Ohio General Assembly has attempted to assert control over the administration and collection of municipal income taxes by claiming that a municipality has no authority to impose an income tax unless it adopts a code in strict compliance with R.C. Chapter 718; and

WHEREAS, the established law of Ohio is clear that any such preemption of municipal income tax codes by the State of Ohio violates the Ohio Constitution and home rule provisions that allow a municipal corporation the right to administer and enforce its own municipal income tax; and

WHEREAS, more specifically, the State of Ohio has enacted HB 5 in 2014 comprehensively rewriting the entire municipal income tax law and HB 49 in 2017 authorizing centralized collection by the State of Ohio of municipalities' net profits taxes; and

WHEREAS, the City of Avon desires to assert its home rule authority to control the administration and collection of the municipal income tax, in order to provide for the health, safety and welfare of the municipality.

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

Section 1 - The Mayor is authorized to engage Walter/Haverfield jointly with the Regional Income Tax Agency and other municipalities for the purpose of initiating litigation to challenge the constitutionality of amendments to Chapter 718 of the Ohio Revised Code. That the legal services of Walter & Haverfield, LLP are hereby retained, those services to be in connection with the legal challenge(s) to H.B. 49 regulating the collection, administration and enforcement of net profits taxes all of which is as further described in Exhibit A.

Section 2 - 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

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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 3 - That this Ordinance 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 of Avon, the immediate emergency being the necessity to commence judicial proceedings to challenge H.B. 49 given that the effective date of said legislation is January 1, 2018; therefore, this Ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

PASSED: _____ DATE SIGNED: _____

By: _____
Craig Witherspoon, Council President

DATE APPROVED BY THE MAYOR _____

Bryan K. Jensen, Mayor

APPROVED AS TO FORM:

John A. Gasior, Law Director

ATTEST:

Barbara J. Brooks
Clerk of Council

POSTED: _____
In Five Places as
Provided by Council

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