

ORDINANCE NO.: 2018-04
SPONSOR: MAYOR NEUGEBAUER
INTRODUCED: MARCH 13, 2018 **ASSIGNED TO:** _____

AN ORDINANCE TO AMEND SECTIONS 880.03; 880.062; 880.063; AND ENACT NEW SECTION 880.22 OF CHAPTER 880 OF THE CODIFIED ORDINANCES OF THE CITY OF GREEN REGARDING MUNICIPAL INCOME TAX, AND DECLARING AN EMERGENCY.

WHEREAS, the Home Rule Amendment of the Ohio Constitution, Article XVIII, Section 3, provides that “Municipalities shall have authority to exercise all powers of local self-government,” and the municipal taxing power is one of such powers of local self-government delegated by the people of the State to the people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality’s power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states that “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

WHEREAS, the General Assembly determined that it was necessary and appropriate to comprehensively review and amend Chapter 718 of the Ohio Revised Code, setting forth statutory requirements for municipal income tax codes in Ohio; and

WHEREAS, more specifically, the General Assembly enacted H.B.5 in December 2014, and mandated that municipal income tax codes be amended by January 1, 2016 such that any income or withholding tax is “levied in accordance with the provisions and limitations specified in Chapter 718;” and

WHEREAS, upon a detailed review of H.B.5 and the Codified Ordinances of the City of Green, Ordinance 2015-15 was passed and adopted by this Council on or about November 10, 2015 to enact the amendments required prior to the January 1, 2016 deadline, in accord with the provisions and limitations specified in Chapter 718 of the Revised Code; and

WHEREAS, since that time the General Assembly has identified certain conflicts and required clarifications to H.B.5; and

WHEREAS, pursuant to Substitute Senate Bill 172, effective September 12, 2016, the General Assembly addressed the conflicts and required clarifications by extending the deadline for the payment of quarterly municipal income tax withholding taxes and modifying the rules for when municipal income tax withholding payments are considered to have been made; and

WHEREAS, pursuant to House Bill 49, effective for tax years January 1, 2018, the General Assembly addressed additional conflicts and required clarifications; and

WHEREAS, this Council deemed it in the best interest of the City and its residents to revise the City's Municipal Income Tax Code to conform with the amendments to Ohio Revised Code Chapter 718, as adopted by House Bill 49 and did so pursuant to Ordinance 2017-28; and

WHEREAS, as a result of litigation about the validity of certain provisions not previously adopted by the City, it is now necessary to make amendments to address the centralized collection of net profit returns and the "throwback" rule.

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

SECTION ONE:

Sections 880.03; 880.062; and 880.063 of Chapter 880 of the Codified Ordinances are amended and 880.22 is added to read as set forth in Exhibit "A" a copy of which is attached hereto and incorporated by reference. Notwithstanding the above, the passage of this ordinance does not waive any rights of the City, including, but not limited to the City reserving it right under its home rule powers to challenge House Bill 49, including the amendments to Chapter 718 of the Revised Code.

SECTION TWO:

This Ordinance shall take effect and be in force from and after January 1, 2018.

SECTION THREE:

The City of Green finds and determines that all formal actions of this Council concerning and relating to the adoption of this Resolution were taken in open meetings of this Council and any deliberations of this Council and any of its committees that resulted in those formal actions were in meetings open to the public, in compliance with all legal requirements.

SECTION FOUR:

Council declares this to be an emergency immediately necessary for the preservation of the public peace, health, safety and welfare of the citizens of Green. It is necessary for City Council to enact this Ordinance to ensure that the provisions of it are effective January 1, 2018 to enable the City to tax income of individuals pursuant to the changes made by the Ohio Legislature in and through House Bill 49. Provided that this legislation receives the affirmative vote of three-fourths (3/4ths) of the members elected or appointed to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise, it shall take effect and be in force at the earliest time allowed by law.

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ADOPTED: _____

Molly Kapeluck, Clerk

Chris Humphrey, Council President

APPROVED: _____, 2018

Gerard M. Neugebauer, Mayor

ENACTED EFFECTIVE: _____, 2018

ON ROLL CALL:	Babbitt	Dyer	Humphrey	Shaughnessy
	Speight	Yeargin	Young	

Suburbanite publication on _____ and _____

Molly Kapeluck, Clerk

03/08/2018 Approved as to form and content by Diane A. Calta, Director of Law _____