

ORDINANCE NO. 2018-02

AN ORDINANCE ENACTING CHAPTER 196 ENTITLED "CHAPTER 196, FILING NET PROFIT TAXES" AND DECLARING AN EMERGENCY.

WHEREAS, in House Bill 49 of the 132nd Ohio General Assembly, the State's general appropriations bill for the biennium, includes Section 803.100 purporting to require that municipalities adopt certain municipal income tax provisions that are also adopted within House Bill 49 to authorize State officials to collect and administer municipal net profits taxes; and

WHEREAS, Section 803.100 of House Bill 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 House Bill 49, and Section 718.04(A) of the Ohio Revised Code, violate the Home Rule Amendment, the Village nevertheless is compelled to adopt House Bill 49's municipal income tax provisions 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 House Bill 49 and Section 718.04(A) of the Ohio Revised Code; and

WHEREAS, multiple Ohio municipalities are parties to ongoing litigation seeking a declaration that the House Bill 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 House Bill 49 municipal income tax provisions; and

WHEREAS, the Village, by enacting this Ordinance, does not concede the legality of House Bill 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 Ohio municipalities are participating; and

WHEREAS, when the named plaintiffs prevail in the aforementioned litigation, this Chapter 196 shall be considered immediately and effectively repealed and made null, void, and ineffective with no further action required by this Council;

NOW THEREFORE, BE IT ORDAINED by the Council of the Village of Ottoville, State of Ohio, two-thirds (2/3) of all members elected thereto concurring:

SECTION 1: That this Council hereby expressly finds and determines that it does not concede the legality of House Bill 49's municipal income tax provisions; Section 803.100 of House Bill 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 adoption of this Ordinance shall not prejudice any claims of the Village therein.

SECTION 2: That "Chapter 196, Filing Net Profit Taxes" attached hereto as "Exhibit A" and made a part hereof as fully and completely as if written herein.

SECTION 3: Provisions of Chapter 196 as displayed in Exhibit A attached hereto shall apply retroactively to January 1, 2018.

SECTION 4: This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the inhabitants of the Village of Ottoville, Ohio.

WHEREFORE: This Ordinance shall be in full force and effect from and after the earliest period provided by law.



PRESIDENT OF COUNCIL


MAYOR

PASSED February 26, 2018

ATTEST Jeanne M Wannemacher
CLERK OF COUNCIL

APPROVED Jeanne M Wannemacher