

ORDINANCE NO. 38-18

AN ORDINANCE AMENDING CHAPTER 183 OF THE CODIFIED ORDINANCES OF THE CITY OF PORT CLINTON, OHIO, TO INCORPORATE CHANGES REQUIRED IN SECTIONS 718.80 THROUGH 718.95 OF THE OHIO REVISED CODE BY ENACTING SECTIONS 183.22 THROUGH 183.37 OF THE CODIFIED ORDINANCES 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 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 the General Assembly may restrict a municipalities power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, Section 13 of the Ohio Constitution states “laws may be passed to limit the powers of municipalities to levy taxes and incur debts for local purposes;” and

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

WHEREAS, 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 municipalities 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 purportedly violate the Home Rule Amendment, the city is compelled to adopt H. B. 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 H.B. 49 and Section 718.04(A) of the Ohio Revised Code; and

WHEREAS, the city, by enacting this ordinance, and does not concede the legality of a municipalities Home Rule Powers or any other law.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORT CLINTON, STATE OF OHIO, THAT:

Section 1. That Chapter 183 of the Codified Ordinances of the City of Port Clinton is hereby amended to add Sections 183.22 through 183.37 as set forth in the document attached hereto as Exhibit A and incorporated herein by reference.

Section 2. The provisions of amended Chapter 183 shall apply to taxable years beginning on or after January 1, 2018, and for all following years that Chapter 183 is in force and effect.

Section 3. This Council finds and determines that all formal actions of this Council and any of its Committees concerning and relating to the passage of this Ordinance were taken in an open meeting of this Council or committees, and that all 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 the law.

Section 4. This Ordinance is declared to be an emergency measure necessary for the immediate preservation of the public peace, health and safety of the City, and for the further reason that this Ordinance is required to be immediately effective to preserve the taxing authority of the City under the provisions of H.B. 49 and Section 718.04(A) of the Ohio Revised Code; **wherefore**, this ordinance shall be in full force and effect immediately upon its passage and approval by the Mayor.

DATE PASSED: _____

President of Council

ATTEST: _____
Clerk of Council

Mayor

Date approved