

**ORDINANCE NO. 2015-100
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE ENACTING CHAPTER 792 OF THE
CODIFIED ORDINANCES OF THE CITY OF
LYNDHURST 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 municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict the municipal power of taxation to the extent necessary to prevent abuse of such power, and Article XIII, 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 has determined that it is 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 of the Ohio Revised Code; and

WHEREAS, upon a detailed review of H.B. 5 and the Codified Ordinances of the City of Lyndhurst, this Ordinance is found and determined by this Council to enact the amendments required prior to the January 1, 2016 deadline to be in accord with the provisions and limitations specified in Chapter 718 of the Ohio Revised Code; and

WHEREAS, Council also finds and determines that the constitutionality of certain provisions of the state-mandated code may have been put in question by recent decisions of the Ohio Supreme Court regarding, among other things, taxation of professional athletes, but these provisions must be included if the municipal income tax code is to be “levied in accordance with the provisions and limitations specified in Chapter 718, and thus are reluctantly adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional. Now, therefore,

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNDHURST,
CUYAHOGA COUNTY, STATE OF OHIO, THAT:**

SECTION 1. Chapter 792 of the Codified Ordinances be enacted to read as set forth in the document entitled “The City of Lyndhurst Income Tax Ordinance Effective January 1, 2016, Chapter 792,” attached hereto as Exhibit A and incorporated herein by reference.

SECTION 2. This Ordinance shall take effect and be in force from and after January 1, 2016.

SECTION 3. The Council finds and determines that all formal actions of this Council relating to the adoption of this Ordinance have been taken at open meetings of this Council; and that deliberations of this Council and of its committees, resulting in such formal action, took place in meetings open to the public, in compliance with all statutory requirements including the requirements of Section 121.22 of the Ohio Revised Code.

SECTION 4. This Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the health, safety and welfare of the residents of the City of Lyndhurst for the reason that it is necessary to adopt this Ordinance without delay so as to make the provisions of the City's Tax Code consistent with the provisions of the Ohio Revised Code. Therefore this Ordinance shall take effect and be in force from and after January 1, 2016, provided it receives the affirmative vote of not less than five (5) members elected to Council and signature by the Mayor.

PASSED: December 7, 2015

MAYOR

VICE-MAYOR

ATTEST: _____
Clerk of Council

I, the undersigned Clerk of Council of the City of Lyndhurst, hereby certify that there is no newspaper published or having an office of publication in said City, and that I published the foregoing Ordinance by advertising the same by title on one day in each of two consecutive weeks in a newspaper of general circulation in said City, on December 17, 2015 and December 24, 2015.

Clerk of Council

First Reading: November 16, 2015

Second Reading: December 7, 2015

Third Reading: Suspended