

**ORDINANCE NO. 2017-91  
INTRODUCED BY: ADMINISTRATION**

**AN ORDINANCE TO AUTHORIZE THE MAYOR TO ENGAGE THE LAW FIRM OF WALTER/HAVERFIELD LLP 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 Lyndhurst 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 City of Lyndhurst 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 Lyndhurst 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 LYNDHURST, CUYAHOGA COUNTY, STATE OF OHIO:**

**SECTION 1.** The Mayor is authorized to engage Walter/Haverfield LLP 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, and 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 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 Lyndhurst, 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 by the affirmative vote of not less than five (5) members of Council, and signature by the Mayor, or otherwise at the earliest time allowed by law.

PASSED: December 4, 2017

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**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 14, 2017 and December 21, 2017.

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**Clerk of Council**

First Reading: December 4, 2017

Second Reading: Suspended

Third Reading: Suspended

Passed 12-04-2017