

**VILLAGE OF SOUTH LEBANON, OHIO
ORDINANCE NO. 2017-13**

AN ORDINANCE TO AUTHORIZE THE MAYOR TO JOIN A COALITION OF MUNICIPALITIES RETAINING SPECIAL COUNSEL 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 Village of South Lebanon 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 Village of South Lebanon 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 Village of South Lebanon 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; and

WHEREAS, immediate action is required to join the litigation prior to filing and before HB 49 goes into effect, and in order to preserve the public peace, health, or safety of the Village.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of South Lebanon, Ohio, at least two-thirds of all members elected hereto concurring:

Section 1: The Mayor is authorized to join a coalition of municipalities being formed for the purpose of initiating litigation to challenge the constitutionality of amendments to Chapter 718 of the Ohio Revised Code contained in H.B. 5 and H.B. 49, and retain the law firm of Frost Brown Todd LLC as special counsel for the coalition of municipalities.

Section 2: This Ordinance shall be an emergency measure necessary for the preservation of the health, welfare and safety of the residents of the Village of South Lebanon, Ohio, such emergency arising from the need for immediate judicial proceedings given that the effective date of Am. Sub. HB 49 is January 1, 2018;

Section 3. That the Council is acting in its administrative capacity in accordance with Ohio Rev. Code § 733.48.

Section 4. That the recitals contained within the Whereas Clauses set forth above are incorporated by reference herein.

Section 5. That this Resolution is hereby declared to be an emergency measure in accordance with Ohio Rev. Code § 731.30 for the immediate preservation of the public peace, health, safety and general welfare; and, this Resolution shall be in full force and effective immediately upon its passage.

Section 6. That it is found and determined that all formal actions of the Council concerning and relating to the adoption of this Resolution were adopted in an open meeting of Council in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

Adopted this 2nd day of November, 2017.

Attest: Nicole Armstrong James D. Smith
Nicole Armstrong, Fiscal Officer/Clerk James D. Smith, Mayor

Rules Suspended: <u>11/2</u> /2017 (if applicable) /2017	Effective Date – / /
Vote - <u>6</u> Yeas ___ Nays	
First Reading – / /2017	Effective Date – / /2017
Second Reading – / /2017	
Third Reading – / /2017	
Vote - ___ Yeas ___ Nays	

Prepared by and approved as to form:

PAUL R. REVELSON
VILLAGE SOLICITOR
SOUTH LEBANON, OHIO

By: _____
Date: 11/9 /2017

CERTIFICATE OF POSTING

I, Nicole Armstrong, Fiscal Officer of the Village of South Lebanon, Ohio do hereby certify I posted a true and accurate copy of this ordinance or resolution, summary of ordinance or resolution, or statement, order, proclamation, notice or report, at five public places within the Village as authorized by Section 731.25 of the Ohio Revised Code and Ordinance 98-08 of Village of South Lebanon, Ohio.

11/10/17
Date

Nicole Armstrong
Nicole Armstrong
Fiscal Officer
Village of South Lebanon,
Ohio