

First Reading: September 9, 2015
Second Reading: October 12, 2015

PASSED:
BY:

ORDINANCE NO. 2015-12

AN ORDINANCE TO ADD CHAPTER 101, AND AMEND SECTION 93.04, OF THE
MUNICIPAL CODE OF ORDINANCES REGARDING MUNICIPAL INCOME TAX

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 people of municipalities; and

WHEREAS, Article XIII, Section 6 of the Ohio Constitution provides that the General Assembly may restrict a municipality’s power of taxation to the extent necessary to prevent abuse of such power, and Article XVIII, 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];” and

WHEREAS, upon a detailed review of H.B. 5 and the Municipal Code of Ordinances of Amberley Village, 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 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 reluctantly are adopted by this Council but are disclaimed to the extent they are unlawful or unconstitutional;

NOW, THEREFORE, BE IT ORDAINED BY THE Council of Amberley Village, State of Ohio, _____ members elected thereto concurring:

SECTION 1: That Chapter 101, commencing with Section 101.01 of the Municipal Code of Ordinances, which is to be added to and amends the Municipal Code of Ordinances,

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reads as follows in the document entitled "Chapter 101, Municipal Income Tax" attached hereto as Exhibit A and fully incorporated herein by reference.

SECTION 2: That Section 93.04 of the Municipal Code of Ordinances is amended to read as follows:

§ 93.04 EFFECTIVE PERIOD.

The tax provided for under this Chapter shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensation, and with respect to the net profits of businesses, professions, and other activities, earned from January 1, 1971 through December 31, 2015, until repealed by action of Council.

SECTION 3: If any provision of this Ordinance, or related chapter or section of the Municipal Code added or amended herein, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications thereof which can be given effect without the invalid provision or application, and to this end the provisions are severable.

SECTION 4: That this Ordinance shall take effect and be in force from and after January 1, 2016.

Passed this ____ day of _____, 2015.

Mayor Thomas C. Muething

Attest:

Nicole Browder, Clerk of Council

Ordinance Vote:

Moved: _____ Second: _____

Muething _____
Wolf _____
Bardach _____
Conway _____
Doering _____
Hattenbach _____
Warren _____

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I, Clerk of Council of Amberley Village, Ohio, certify that on the ____ day of _____, 2015, the forgoing Ordinance was published pursuant to Article IX of the Home Rule Charter by posting true copies of said Ordinance at all of the places of public notice as designed by Sec. 31.40(B), Code of Ordinances.

Nicole Browder, Clerk of Council