

ORDINANCE NO. 2017 - 159

**AN ORDINANCE TO AUTHORIZE THE CITY MANAGER OR HIS DESIGNEE TO ENGAGE THE LAW FIRM OF WALTER/HAVERFIELD 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 RELATING TO MUNICIPAL INCOME TAX, AND DECLARING AN EMERGENCY.**

**WHEREAS**, the City of Kent, Ohio 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**, Kent 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 Kent 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 RESOLVED** by the Council of the City of Kent, Portage County, Ohio, at least three-fourths (3/4) of all members elected thereto concurring:

**SECTION 1.** The City Manager is authorized to engage Walter/Haverfield 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. 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 adoption 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 action, were in meetings open to the public in compliance with all legal requirements of Section 121.22 of the Ohio Revised Code.

**SECTION 3.** That this Ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety and welfare of the residents of this City, for which reason and other reasons manifest to this Council, this Ordinance is hereby declared to be an emergency measure and shall take effect and be in force immediately after passage.

PASSED: 12-13-17  
Date

Jerry T. Fiala  
Jerry T. Fiala  
Mayor and President of Council

EFFECTIVE: 12-13-17  
Date

ATTEST: Jana Silver  
Jana Silver, CMC  
Acting Clerk of Council