AN ORDINANCE

BY VICE MAYOR BYINGTON NO 4812

ADOPTING CHAPTER 148-1, *MUNICIPAL INCOME TAX*, OF THE OAKWOOD ADMINISTRATIVE CODE TO IMPLEMENT A NEW TAX ORDINANCE FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2016, AND LIMITING THE APPLICATION OF EXISTING CHAPTER 148 TO TAX YEARS PRIOR TO 2016.

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 municipalities 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 Codified Ordinances of the city of Oakwood, 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 RESOLVED BY THE COUNCIL OF THE CITY OF OAKWOOD, MONTGOMERY COUNTY, OHIO:

SECTION I:
That Chapter 148-1, *Municipal Income Tax*, of the Oakwood Administrative Code shall be and is hereby enacted to read as set forth in the document entitled "Chapter 148-1, Municipal Income Tax," which is attached hereto and incorporated herein by reference.

SECTION II:
That the provisions of new Chapter 148-1 shall apply only to taxable years beginning on or after January 1, 2016, and further, that existing Chapter 148 shall be retained and shall remain in full force and effect for all taxable years not subject to new Chapter 148-1.

SECTION III:
That it is hereby 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 action were in compliance with all legal requirements including § 121.22, Ohio Revised Code.

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

PASSED BY THE COUNCIL OF THE CITY OF OAKWOOD this 2nd DAY OF NOVEMBER, 2015.

Mayor William D. Duncan

ATTEST:

Clerk of Council

TO THE CLERK:
Please publish by incorporating the same into the Codified Ordinances of the city of Oakwood, Ohio.

City Attorney Robert F. Jacques