

# RECORD OF ORDINANCES

BEAR GRAPHICS 800-325-8094 FORM NO. 30043

Ordinance No. \_\_\_\_\_ Passed \_\_\_\_\_, 20\_\_\_\_

## ORDINANCE NO. 17-15-B

### **AN ORDINANCE TO AMEND ORDINANCE 16-15 WHICH AMENDED ORDINANCE 10-05 WHICH AMENDED ORDINANCE 2000-39-00 OF THE VILLAGE OF FRAZESBURG REGARDING MUNICIPAL INCOME TAX; AND DECLARING IT AN EMERGENCY**

**WHEREAS**, the Home Rule Amendment of the Ohio Constitution, Article XVII, 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 Ordinance 16-15 of the Village of Frazesburg, 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 THE VILLAGE OF FRAZEYSBURG, STATE OF OHIO, THAT:**

**Section 1.** That "Chapter 1, Income Tax" attached hereto as Exhibit A and incorporated herein by reference.

**Section 2.** That this Ordinance shall take effect and be in force from and after January 1, 2016.

**Section 3.** That Council finds and determines that all formal actions relative to the passage of this ordinance were taken in an open meeting and that all deliberations of Council which resulted in the passage of this ordinance, were taken in meetings open to the public, in full compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.


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**Section 4.** This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public health, safety, and welfare. The reason for such necessity is providing for the daily operations of Municipal Departments. Therefore this ordinance shall go into immediate effect.


PASSED IN COUNCIL THIS 14<sup>th</sup> DAY OF December, 2015.

  
\_\_\_\_\_  
Gary A. Middlemus  
Mayor

Attest:

  
\_\_\_\_\_  
Jessica A. Everson  
Fiscal Officer

APPROVED AS TO FORM ONLY:

  
\_\_\_\_\_  
Gerald J. Tiberio, Jr.  
Village Solicitor