

# RECORD OF ORDINANCES

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6220

Ordinance No. 95-1298

Passed August 7, 19 95

PROVIDING FOR THE AMENDMENT OF THE VILLAGE OF SUGARCREEK, OHIO, INCOME TAX ORDINANCE BY INCREASING THE RATE OF TAX BY ONE-HALF ( $\frac{1}{2}$ ) PERCENT FOR THE PURPOSE OF PAYING THE CURRENT WASTE WATER TREATMENT PLANT DEBT AND THE DEBT RESULTING FROM THE COST OF CONSTRUCTION OF A NEW WASTE WATER TREATMENT PLANT AND EQUIPMENT AND DECLARING AN EMERGENCY

WHEREAS, Ordinance No. 412 of the Village of Sugar creek, Ohio, did establish a village income tax at the rate of one (1) per cent; and

WHEREAS, the Village of Sugar creek, Ohio, is currently in the process of preparing to construct a new waste water treatment plant; and

WHEREAS, the Village has a current debt obligation on the existing waste water treatment plant; and

WHEREAS, Council of the Village of Sugar creek, Ohio, has determined that it is necessary to increase the current income tax rate from one (1) percent to one and one half ( $1\frac{1}{2}$ ) percent, in order to provide funds to pay the current waste water treatment plant debt and the debt resulting from the construction of a new waste water treatment plant and equipment;

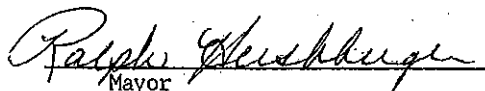
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE VILLAGE OF SUGARCREEK, OHIO, AS FOLLOWS:

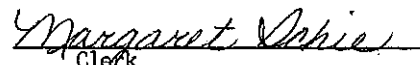
SECTION 1. That Section "3" of Ordinance No. 412 be and the same shall be amended to provide for the levy of an increase in the rate of the village income tax from one (1) percent to one and one-half ( $1\frac{1}{2}$ ) percent if a majority of the electors voting at the general election in the Village of Sugar creek, Ohio, on November 7, 1995 vote in favor of this amendment to the village income tax ordinance.

SECTION 2. If the amendment of the rate of the village income tax is approved as provided in Section 1 of this ordinance, then the rate of income tax shall be effective as of January 1, 1996 and shall continue at that rate until such time as sufficient funds have been received to satisfy the obligations of the Village of Sugar creek, Ohio, with respect to its current waste water treatment plant debt and the debt arising from the construction of a new waste water treatment plant and equipment.

SECTION 3. This ordinance is hereby declared to be an emergency measure necessary for the preservation of the peace, health, safety and welfare of the citizens and inhabitants of the Village of Sugar creek, for the reason that Council wants to have this issue placed on the ballot at the General Election to be held in the Village of Sugar creek, Ohio, on the 7th day of November, 1995, wherefore it will be in full force and effect upon passage provided it meets with the approval of two-thirds of the members of Council.

PASSED: August 7, 1995  
As an emergency measure

  
Mayor

ATTEST:   
Clerk

I HEREBY CERTIFY THE ABOVE AND FOREGOING TO BE A TRUE AND CORRECT COPY OF ORDINANCE NO. \_\_\_\_\_ AS PASSED BY THE COUNCIL OF THE VILLAGE OF SUGARCREEK, OHIO ON \_\_\_\_\_

\_\_\_\_\_  
MARGARET SCHIE, CLERK-TREASURER

Ordinance No. \_\_\_\_\_ Passed \_\_\_\_\_, 19 \_\_\_\_\_

**AFFIDAVIT OF PUBLISHER  
SHOWING PUBLICATION OF**

Ord. # 95-1289

The State of Ohio, Tuscarawas County ss:  
personally appeared before me

Fannie Erb

and made solemn oath that the notice, a  
copy of which is hereto attached, was  
published for 2

weeks and on the same day of the week

commencing August 16, 1995

in THE BUDGET, a newspaper printed and  
of general circulation in the county  
aforesaid.

[Signature]  
Asst. Sec.

Sworn to before me and signed in my  
presence, this 6th day of

September A.D. 19 95.

[Signature]  
NOTARY PUBLIC, STATE OF OHIO  
My Commission Expires April 6, 1998

Printer's Fee \$ 63.80

**LEGAL NOTICE**

The following Summary of Legislation passed by the Council of the Village of Sugar Creek, Ohio, on the 7th day of August, 1995, is published to comply with Section 731-21 of the Ohio Revised Code. Copies of the entire text may be viewed at the office of the Village Clerk during regular business hours Monday through Friday. The Clerk will supply a copy of the complete text upon request and payment of a fee of \$100 per page.

**ORDINANCE NO. 95-1289**  
Titled: Providing for the vacation of an easement from the Belden Brick Company.

**ORDINANCE NO. 95-1290**  
Titled: Accepting deed of easement from the Belden Brick Company for relocation of a water line.

**ORDINANCE NO. 95-1296**  
Titled: Accepting two (2) deeds of easements from the Belden Brick Company for water line purposes along State Route 93.

**ORDINANCE NO. 95-1297**  
Titled: Providing for the transfer and appropriation of unappropriated money in the general fund, the village income tax fund, the fire truck debt service fund, and for a decrease in original appropriation of the capital project fund (fire truck) of the village of Sugar Creek, Ohio, and declaring an emergency.

**ORDINANCE NO. 95-1298**  
Titled: Providing for the Amendment of the village of Sugar Creek, Ohio, income tax ordinance by increasing the rate of tax by one-half (1/2) percent for the purpose of paying the current waste treatment plant debt and the debt resulting for the cost of construction of a new waste water treatment plant and equipment and declaring an emergency.

**RESOLUTION NO. 95-1299**  
Titled: Directing the Board of Elections of Tuscarawas County to conduct an election to submit the issue of increasing the rate of the village of Sugar Creek, Ohio, income tax as provided in Ordinance No. 95-1298, passed August 7, 1995, for the approval of the election of the village of Sugar Creek. The general election is to be held in said village on November 7, 1995, and declaring an emergency.

(Published August 16, 1995)

RECORD OF ORDINANCES

Ordinance No. 11-2014 Passed August 15, 2011

AMENDING SECTION 5 OF ORDINANCE #69-412,  
PASSED JUNE 9, 1969 AND SECTION VII OF RESOLUTION #69-413,  
PASSED JUNE 9, 1969, TO CHANGE THE FILING DATE FROM  
APRIL 30 TO APRIL 15 OF EACH CALENDAR YEAR,  
AND OTHER RELATED CHANGES.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE  
VILLAGE OF SUGARCREEK, OHIO AS FOLLOWS:

SECTION 1. That Section 5 (A) of Ordinance #69-412, passed on June 9, 1969,  
is hereby amended to read as follows:

"SECTION 5. RETURN AND PAYMENT OF TAX

- A. Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 15 of the year following the effective date of this ordinance, and on or before April 15 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within three and one half (3 ½) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulations that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions, or other compensation.

SECTION 2. That existing Section 5 (A) of Ordinance #69-412, passed on June 9, 1969,  
is hereby repealed.

SECTION 3. That Article V (A) (1) of Resolution #69-413, passed on June 9, 1969, is  
hereby amended to read as follows:

A. Date and Requirement for filing:

- 1. On or before April 15<sup>th</sup> of the year following the effective date of the ordinance and each year thereafter, every person subject to the provisions of Section 3, paragraphs A-1 to A-5, inclusive, of the ordinance shall, except as hereinafter provided, make and file with the Administrator, a return on a form prescribed by and obtainable upon request from the Administrator, whether or not a tax be due.

SECTION 4. That existing Article V (A) (1) of Resolution #69-413, passed on June 9,  
1969, is hereby repealed.

RECORD OF ORDINANCES

Ordinance No. 11-2014 Passed August 15, 2011

SECTION 5. That Article VII, Sections (A) (1), (B) (1) and (2), and (D) (1) of Resolution #69-413, passed on June 9, 1969, are hereby amended to read as follows:

A. Requirement of Filing.

- 1. A declaration of estimated tax shall be filed by every taxpayer who may reasonably be expected to have taxable income, the tax on which is not or will not be withheld by an employer or employers. Where required such declaration shall be filed within three and one half (3 1/2) months after the beginning of the taxable year.

B. Date of Filing:

- 1. A person or other entity conducting a business not previously subject to the tax, or whose employer does not withhold the tax, shall file a declaration within three and one half (3 1/2) months after the date he becomes subject to the tax.
- 2. Those taxpayers having a fiscal year or period of differing from the calendar year shall file a declaration within three and one half (3 1/2) months after the start of each fiscal year or period.

D. Dates of Payments:

- 1. The estimated tax may be paid in full with the declaration or in equal installments on or before the fifteenth (15th) day of the fourth, sixth, ninth and twelfth month after the beginning of the taxable year.

SECTION 6. That existing Article VII sections (A) (1), (B) (1) and (2), and (D) (1) of Resolution #69-413, passed on June 9, 1969, are hereby repealed

SECTION 7. This ordinance shall be in full force and take effect at the earliest period allowed by law.

Passed: August 15, 2011

[Signature] Mayor

ATTEST: [Signature] Becky Culow

# RECORD OF ORDINANCES

Ordinance No. 04-1728

Passed DECEMBER 20, 2004

**ORDINANCE AMENDING TAX CODE ORDINANCE,  
#01-1612, AND RESOLUTION #01-1613, TO MAKE  
GAMBLING INCOME TAXABLE.**

WHEREAS, the Village Tax Code does not currently address Gambling income; and

WHEREAS, the Council of the Village of Sugarcreek believes it to be appropriate to tax Gambling income as does the Federal Government and the State of Ohio;

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE OF  
SUGARCREEK, OHIO, AS FOLLOWS:**

**SECTION 1.** The following definitions shall be added to Ordinance #01-1613, under "Section 2., Definitions", as follows:

**Gambling Income-** Income earned, received, or derived from gaming, wagering, lotteries, or schemes of chance.

**Lottery** Any scheme of chance whereby a person for a consideration is permitted to receive a prize or nothing as may be determined predominantly by chance. "Lotteries" shall expressly include, but not be limited to, the Ohio State Lottery, Multi-State Lottery, or any other lottery run by a government entity.

**SECTION 2.** The following paragraph shall be added to Ordinance #01-1612 under "Section 3, Imposition of Tax", as follows:

"6. On income in excess of \$10,000.00 in any calendar year derived from gambling, watering, lotteries, and games of scheme or chance earned or received by either a resident of the Village or by a non-resident who has participated in gambling, wagering, lotteries or games of scheme or chance within the corporate limits of the Village of Sugarcreek. The first \$10,000.00 of gambling income shall be exempt from taxation under this Ordinance."

**SECTION 3.** Section 6 of Ordinance #01-1612 shall be renamed "Reporting and Collection at Source", and shall include the following paragraph:

"D. Every business or non-profit entity who sells lottery tickets, or conducts other gaming, wagering, lotteries, or schemes of chance within the Village of Sugarcreek shall file a report with the Village Tax Administrator for each person who earns or receives gambling proceeds in excess of \$600.00 in any one game, wager, lottery or scheme of chance. The report shall contain the amount of winnings, the name and address of the winner, and the winner's social security number.

**SECTION 4.** The following definitions shall be added to Resolution #01-1613, under "Section 7, Declarations", as follows:

**Gambling Income -** Income earned, received, or derived from gaming, wagering, lotteries, or schemes of chance.

# RECORD OF ORDINANCES

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Form 6220

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_, \_\_\_\_\_

RECORD OF ORDINANCES

Ordinance No. 04-1728

Passed DECEMBER 20, 2004

**Lottery**

Any scheme of chance whereby a person for a consideration is permitted to receive a prize or nothing as may be determined predominantly by chance. "Lotteries" shall expressly include, but not be limited to, the Ohio State Lottery, Multi-State Lottery, or any other lottery run by a government entity.

**SECTION 5.**

This ordinance shall take effect at the earliest period allowed by law.

Passed: DECEMBER 20, 2004

Jeri Middaugh  
Mayor

ATTEST:

Betsy Culow  
Clerk

RECORD OF ORDINANCES

BARRETT BROTHERS, PUBLISHERS, SPRINGFIELD, OHIO

Ordinance No. \_\_\_\_\_

Passed \_\_\_\_\_

AFFIDAVIT OF PUBLISHER  
SHOWING PUBLICATION OF

ord. # 04-1728

The State of Ohio, Tuscarawas County  
personally appeared before me

Fannie Erb Miller

and made solemn oath that the notice:

copy of which is hereto attached, was

published for 2

weeks and on the same day of the week

commencing Dec. 29, 2004

in THE BUDGET, a newspaper printed and

of general circulation in the county

above-said.

Fannie Erb Miller

Asst. Sec.  
Sworn to before me and signed in my

presence, this 5th day of

July A.D. 2005

Deborah S. Gerber

DEBORAH S. GERBER

NOTARY PUBLIC, STATE OF OHIO

My Commission Expires April 6, 2008

Printer's Fee \$ 175.90

ORDINANCE NO. 04-1728  
Titled: Ordinance amending tax code Ordinance #01-1612, and replacing #01-1613, to make gambling income taxable.

ORDINANCE NO. 04-1729  
Titled: Setting the dates for elected officials in the village of Sugarcreek, Ohio for the year 2005, and declaring an emergency.

ORDINANCE NO. 04-1730  
Titled: To make temporary appropriations for the current expenses and other expenditures of the village of Sugarcreek, Ohio, for the year 2005, and declaring an emergency.

ORDINANCE NO. 04-1735  
Titled: Providing for the intrafund transfer of funds of the village of Sugarcreek, Ohio, and declaring an emergency.

ORDINANCE NO. 04-1736  
Titled: Appointing a collector for the village of Sugarcreek, Ohio, for the years 2005 and 2006, and fixing the compensation to be paid and declaring an emergency.

ORDINANCE NO. 04-1737  
Titled: Providing for the intrafund transfer of funds of the village of Sugarcreek, Ohio, and declaring an emergency.

ORDINANCE NO. 04-1739  
Titled: Authorizing the mayor and the clerk of the village of Sugarcreek, Ohio, to enter in a contract for providing fire protection for the Township of Auburn, Tuscarawas County, Ohio, for the years 2005, 2006 and 2007, and declaring an emergency.

ORDINANCE NO. 04-1740  
Titled: Authorizing the mayor and the clerk of the village of Sugarcreek, Ohio, to enter in a contract for providing fire protection for the Clark Township Fire-101, Holmes County, Ohio, for the years 2005, 2006 and 2007, and declaring an emergency.

ORDINANCE NO. 04-1741  
Titled: Authorizing the mayor and the clerk of the village of Sugarcreek, Ohio, to enter in a contract for providing fire protection for the East Holmes Fire District, Holmes County, Ohio, for the years 2005, 2006 and 2007, and declaring an emergency.

ORDINANCE NO. 04-1742  
Titled: Authorizing an agreement with the Commercial & Savings Bank for a horse parking area and declaring an emergency.

Becky Cillow  
Clerk-Treasurer

(Published Dec. 29, 2004 & Jan. 5, 2005)



# RECORD OF ORDINANCES

Ordinance No. 01-1612

Passed November 5, 2001

ORDINANCE NO. 01-1612  
Passed NOVEMBER 5, 2001

**An Ordinance Amending and replacing Ordinance No. 412, passed June 9, 1969, Bringing the Municipal Income Tax Code into compliance with Sub. H.B. 477.**

BE IT ORDAINED by the Council of the Village of Sugarcreek as follows:

Section 1. The Village of Sugarcreek Tax Code is hereby repealed and replaced by the following:

**SECTION 1. PURPOSE.**

To provide funds for the purposes of general municipal operations, maintenance, new equipment, extension and enlargement of municipal services and facilities and capital improvements of the Village of Sugarcreek there shall be, and is hereby, levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.

**SECTION 2. DEFINITIONS.**

As used in this ordinance, the following words shall have the meaning ascribed to them in this Section, except as and if the context clearly indicates or requires a different meaning.

**ADMINISTRATOR** - The individual designated by the ordinance to administer and enforce the provisions of the ordinance.

**ASSOCIATION** - A partnership, limited partnership, or any other form of pass-through business enterprise, owned by two or more persons.

**BOARD OF REVIEW** - The Board created by and constituted as provided in Section 13 of this ordinance.

**BUSINESS** - An enterprise, activity, profession, or undertaking of any nature conducted for profit, whether by an individual, partnership, limited partnership, association, corporation or any other entity.

**CORPORATION** - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory or foreign country or dependency, and taxed as a C-corporation under the Internal Revenue Code.

**EMPLOYEE** - An individual whose earnings are subject to the withholding of Federal Income Tax or Social Security Tax.

**EMPLOYER** - An individual, partnership, limited partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who or that employs one or more persons on a salary, wage, commission, or other compensation basis.

**FISCAL YEAR** - An accounting period of twelve (12) months or less ending any day other than December 31st.

**GROSS RECEIPTS** - The total income from any source whatsoever.

**NET PROFITS** - A net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary and necessary expenses either paid or accrued in accordance with the accounting system used by the taxpayer for Federal income tax purposes, without deduction of taxes imposed by this ordinance, federal, state, and other taxes based on income; and in the case of an association without deduction of salaries paid to partners, and other owners; and otherwise adjusted to the requirements of this ordinance.

**NON-RESIDENT** - An individual domiciled outside the Village of Sugarcreek.

# RECORD OF ORDINANCES

Ordinance No. 01-1612 Passed November 5, 2001

**NON-RESIDENT PASS-THROUGH BUSINESS ENTITY - A** pass-through business entity not having an office or place of business within the Village of Sugarcreek.

**PASS-THROUGH BUSINESS -** means a partnership, S-corporation, limited liability company, or any other class of entity the income or profits from which are given pass-through treatment under the Internal Revenue Code.

**PERSON -** Every natural person, partnership, limited partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any pass-through business entity, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

**PLACE OF BUSINESS -** Any bona fide office (other than a mere statutory office), factory, warehouse or other space which is occupied and used by the taxpayer in carrying on any business activity individually or through one or more of his regular employees regularly in attendance.

**RESIDENT -** An individual domiciled in the Village of Sugarcreek.

**RESIDENT PASS-THROUGH BUSINESS ENTITY -** A pass-through business entity having an office or place of business within the Village of Sugarcreek.

**TAXABLE INCOME -** Wages, salaries, and other compensation paid by an employer or employers before any deductions and/or the net profits from the operation of a business, profession or other enterprise or activity adjusted in accordance with the provisions of the ordinance.

**TAXABLE YEAR -** The calendar year, or the fiscal year upon the basis of which net profits are to be computed under this ordinance and, in the case of a return for a fractional part of a year, for the period for which such return is required to be made.

**TAXPAYER -** A person, whether an individual, partnership, limited partnership, association, or corporation or other entity, required hereunder to file a return or pay a tax.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

### **SECTION 3. IMPOSITION OF TAX.**

A. Subject to the provisions of Section 16 of this ordinance, an annual tax the purposes specified in Section 1 hereof shall be imposed on and after July 1, 1969 at the rate of one (1) percent (%) per annum, and any duly certified additions thereto upon the following:

1. On all salaries, wages, commissions and other compensation earned on and after July 1, 1969, by residents of Sugarcreek.

2. On all salaries, wages, commissions and other compensation earned on and after July 1, 1969 by non-residents for work done or services performed or rendered in Sugarcreek unless the non-resident earned compensation for personal services by working 12 days or less through the applicable calendar year. Professional entertainers, professional athletes, and promoters of professional entertainment and sporting events must pay tax on all salaries, wages, and commissions and other compensation earned for work done or services performed or rendered in Sugarcreek regardless of the number of days worked in the applicable calendar year.

3. (a) On the portion attributable to Sugarcreek of the net profits earned on or after July 1, 1969 of all resident pass-through businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in Sugarcreek.

# RECORD OF ORDINANCES

Ordinance No. 01-1612

Passed November 5,

2001

(b) On the portion of the distributive share of the net profits earned on and after July 1, 1969 of a resident partner or owner of a resident pass-through business entity not attributable to Sugarcreek and not levied against such pass-through business entity.

4. (a) On the portion attributable to Sugarcreek of the net profits earned on and after July 1, 1969 of all non-resident pass-through businesses, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in Sugarcreek, whether or not such pass-through business entity has an office or place of business in Sugarcreek.

(b) On the portion of the distributive share of the net profits earned on and after July 1, 1969 of a resident partner or owner of a non-resident pass-through business entity not attributable to Sugarcreek and not levied against such pass-through business entity.

5. On the portion attributable to Sugarcreek, of the net profits earned on and after July 1, 1969 of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in Sugarcreek, whether or not such corporations have an office or place of business in Sugarcreek.

B. The portion of the net profits attributable to Sugarcreek of a taxpayer conducting a business, profession or other activity both within and without the boundaries of Sugarcreek shall be determined as provided in Section 718.02 of the Revised Code of Ohio and in accordance with the rules and regulations adopted by the Council of the Village of Sugarcreek pursuant to this ordinance.

C. Operating Loss Carry Forward.

(1) The portion of a net operating loss sustained in any taxable year subsequent to July 1, 1969 allocable to Sugarcreek may be applied against the portion of the profit of succeeding year(s) allocable to Sugarcreek, until exhausted but in no event for more than five (5) taxable years. No portion of any net operating loss shall be carried back against net profits of any prior year.

(2) The portion of a net operating loss sustained shall be allocated to Sugarcreek in the same manner as provided herein for allocating net profits to Sugarcreek.

(3) The Administrator shall provide by Rules and Regulations the manner in which such net operating loss carry-forward shall be determined.

D. EXCEPTION. The tax provided for herein shall not be levied upon the military pay or allowances of members of the armed forces of the United States, or upon the net profits of any civic, charitable, religious, fraternal or other organization specified in Section 718.01 of the Revised Code of Ohio to the extent that such net profits are exempted from municipal income taxes under said Section.

## SECTION 4. EFFECTIVE PERIOD.

Said tax shall be levied, collected and paid with respect to the salaries, wages, commissions and other compensations, and with respect to the net profits of businesses, professions or other activities earned on and after July 1, 1969.

## SECTION 5. RETURN AND PAYMENT OF TAX.

A. Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this ordinance, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by

RECORD OF ORDINANCES

Ordinance No. 01-1612

Passed November 5, 2001

regulation that the return of an employer or employers showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions or other compensation.

B. The return shall be filed with the Administrator on a form or forms furnished by or obtainable upon request from such Administrator setting forth:

(1) The aggregate amounts of salaries, wages, commissions and other compensation earned and gross income from business, profession or other activity, less allowable expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax;

(2) The amount of the tax imposed by this ordinance on such earnings and profits;

(3) Such other pertinent statements, information returns, or other information as the Administrator may require.

C. The Administrator may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six (6) months, or one (1) month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal Income Tax Return. The Administrator may require a tentative return, accompanied by payment of the amount of tax shown to be due thereon by the date the return is normally due. No penalty or interest shall be assessed in those cases in which the return is filed and the final tax paid within the period as extended.

D. (1) The taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; provided, however, that where any portion of the tax so due shall have been deducted at the source pursuant to the provisions of Section 6 of this ordinance, or where any portion of said tax shall have been paid by the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 15 hereof, shall be deducted from the amount shown to be due and only the balance, if any, shall be due and payable at the time of filing said return.

(2) A taxpayer who has overpaid the amount of tax to which the Village of Sugarcreek is entitled under the provisions of this ordinance may have any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

E. (1) AMENDED RETURNS: Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax over-paid, subject to the requirements and/or limitations contained in Sections 11 and 15. Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportionment of net profits after the due date for filing the original return.

(2) Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's Sugarcreek tax liability, such taxpayer shall make and file an amended Sugarcreek return showing income subject to the Village of Sugarcreek tax based upon such final determination of federal tax liability, and pay any additional tax shown due thereon or make claim for refund of any overpayment.

F. CONSOLIDATED RETURNS: Corporate groups that file consolidated returns for Federal income tax may file a consolidated return for Village income tax.

# RECORD OF ORDINANCES

Ordinance No. 01-1612 Passed November 5, 2001

## SECTION 6. COLLECTION AT SOURCE.

A. In accordance with Rules and Regulations prescribed by the Administrator, each employer within or doing business within Sugarcreek shall deduct at the time of the payment of salary, wage, commission or other compensation, the tax of one (1) percent (%), plus any duly certified additions thereto, of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. Said returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

B. Such employer in collecting said tax shall be deemed to hold the same, until payment is made by such employer to Sugarcreek, as a Trustee for the benefit of Sugarcreek and any such tax collected by such employer from his employees shall, until the same is paid to Sugarcreek, be deemed a trust fund in the hands of such employer.

C. Provided, however, that no person shall be required to withhold the tax on the wages or other compensation paid to the following:

- (1). Domestic servants employed exclusively in or about such person's residence;
- (2). Employees of a non-resident employer provided the withholding for the applicable calendar year would not or does not exceed \$150.00.

## SECTION 7. DECLARATIONS.

A. Every person who anticipates any taxable income which is not subject to Section 6 hereof, or who engages in any business, profession, enterprise, or activity subject to the tax imposed by Section 3 hereof shall file a declaration setting forth such estimated income or the estimated profit or loss from such business activity together with the estimated tax due thereon, if any; provided, however, if a person's income is wholly from wages from which the tax will be withheld and remitted to the Village of Sugarcreek in accordance with Section 6 hereof, such person need not file a declaration.

B. (1) Such declaration shall be filed on or before April 30 of each year during the life of this ordinance, or within four (4) months of the date the taxpayer becomes subject to tax for the first time.

(2) Those taxpayers reporting on a fiscal year basis shall file a declaration within four (4) months after the beginning of each fiscal year or period.

C. (1) Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for Sugarcreek tax to be withheld from any portion of such income. In accordance with the provisions of Section 15 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

(2) The original declaration (or any subsequent amendment thereof) may be increased or decreased on or before any subsequent quarterly payment date as provided for herein.

D. Such declaration of estimated tax to be paid Sugarcreek shall be accompanied by a payment of at least one-fourth ( $\frac{1}{4}$ ) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and twelfth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance

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shown due thereon shall be paid in equal installments on or before the remaining payment dates.

E. On or before the last day of the fourth month of the year following that for which such declaration or amended declaration was filed, an annual return shall be filed and any balance which may be due the Village of Sugarcreek shall be paid therewith in accordance with the provisions of Section 5 hereof.

## SECTION 8. DUTIES OF ADMINISTRATOR.

A. (1) It shall be the duty of the Administrator to receive the tax imposed by this ordinance in the manner prescribed herein from the taxpayers; to keep an accurate record thereof; and to report all monies so received.

(2) The taxes imposed and levied pursuant to the provisions of this ordinance shall be administered by an Administrator, appointed by the Council of the Village of Sugarcreek, and such other employees as may be from time to time determined by the Council of the Village of Sugarcreek, and they shall receive such salary as may be determined by the Village Council.

(3) It shall be the duty of the Administrator to enforce payment of all taxes owing Sugarcreek, to keep accurate records for a minimum of five (5) years showing the amount due from each taxpayer required to file a declaration and/or make any return including taxes withheld, and to show the dates and amounts of payments thereof.

B. Said Administrator is hereby charged with the enforcement of the provisions of this ordinance, and is hereby empowered, subject to the approval of the Board of Review, to adopt and promulgate and to enforce rules and regulations relating to any matter of thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this ordinance, including provisions for the re-examination and correction of returns.

The Administrator is authorized to arrange for the payment of unpaid taxes, interest and penalties on a schedule of installment payments, when the taxpayer has proved to the Administrator that, due to certain hardship conditions, he is unable to pay the full amount of the tax due. Such authorization shall not be granted until proper returns are filed by the taxpayer for all amounts owed by him under the ordinance.

Failure to make any deferred payment when due shall cause the total unpaid amount, including penalty and interest, to become payable on demand and the provisions of Section 11 and 12 of the ordinance shall apply.

C. In any case where a taxpayer has failed to file a return or has filed a return which does not show the proper amount of tax due, the Administrator may determine the amount of tax appearing to be due Sugarcreek from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax so determined, together with interest and penalties thereon, if any.

D. Subject to the consent of the Board of Review or pursuant to regulation approved by said Board, the Administrator shall have the power to compromise any interest or penalty, or both, imposed by Section 10 of this ordinance.

## SECTION 9. INVESTIGATIVE POWERS OF THE ADMINISTRATOR -- PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION.

A. The Administrator, or any authorized employee, is hereby authorized to examine the books, papers, records and federal income tax returns of any employer or of any taxpayer or person subject to, or whom the Administrator believes is subject to, the provisions of this ordinance for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this ordinance. Every such employer, supposed employer, taxpayer or

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supposed taxpayer is hereby directed and required to furnish upon written request by the Administrator, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been returned for taxation or any transaction tending to affect such income, and for this purpose may compel the production of books, papers, records and federal income tax returns and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income or information pertinent to such inquiry.

C. The refusal to produce books, papers, records and federal income tax returns, or the refusal to submit to such examination by any employer or person subject or presumed to be subject to the tax or by any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this ordinance shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this ordinance, shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine or penalty of not more than Five Hundred Dollars (\$500.00) or imprisoned for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

In addition to the above penalty, any employee of the Village of Sugarcreek who violates the provisions of this Section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.

E. Every taxpayer shall retain all records necessary to compute his tax liability for a period of five (5) years from the date his return is filed, or the withholding taxes are paid.

## SECTION 10. INTEREST AND PENALTIES.

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of none-half of one percent ( $\frac{1}{2}\%$ ) per month or fraction thereof.

B. In addition to interest as provided in paragraph A hereof, penalties based on the unpaid tax are hereby imposed as follows:

1. For failure to pay taxes due other than taxes withheld: one-half percent ( $\frac{1}{2}\%$ ) per month or fraction thereof.
2. For failure to remit taxes withheld from employees: three percent (3%) per month or fraction thereof.

C. EXCEPTIONS. A penalty shall not be assessed on an additional tax assessment made by the Administrator when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Administrator; and provided further, that, in the absence of fraud, neither penalty nor interest shall be assessed on any additional tax assessment resulting from a federal audit, providing an amended return is filed and the additional tax is paid within three (3) months after final determination of the federal tax liability.

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D. Upon recommendation of the Administrator, the Board of Review may abate penalty or interest, or both, or upon an appeal from the refusal of the Administrator to recommend abatement of penalty and interest, the Board may nevertheless abate penalty or interest, or both.

## SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

A. All taxes imposed by this ordinance shall be collectible, together with any interest and penalties thereon, by suit, as other debts of like amount are recoverable. Except in the case of fraud, omission of a substantial portion of income subject to this tax, or failure to file a return, an additional assessment shall not be made after three (3) years from the time the return was due or filed whichever is later, provided, however, in those cases in which a Commissioner of Internal Revenue and the taxpayer have executed a waiver of the federal statute of limitation, the period within which an additional assessment may be made by the Administrator shall be one (1) year from the time of the final determination of the federal tax liability.

B. Taxes erroneously paid shall not be refunded unless a claim for refund is made within three (3) years from the date which such payment was made or the return was due, or within three (3) months after final determination of the Federal tax liability, whichever is later.

C. Amounts of less than One Dollar (\$1.00) shall not be collected or refunded.

## SECTION 12. VIOLATIONS -- PENALTIES.

A. Any persons who shall:

1. Fail, neglect or refuse to make any return or declaration required by this ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Fail, neglect or refuse to pay the tax, penalties or interest imposed by this ordinance; or
4. Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employee to examine his books, records, papers and Federal income tax returns relating to the income or net profits of a taxpayer; or
6. Fail to appear before the Administrator and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order of subpoena of the Administrator; or
7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or
8. Fail to comply with the provisions of this ordinance or any order of subpoena of the Administrator authorized hereby; or
9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer or any change in residence address and date thereof; or
10. Fail to use ordinary diligence in maintaining proper records of employees' residence addresses, total wages paid and Sugarcreek tax withheld, or to knowingly give the Administrator false information; or
11. Attempt to do anything whatever to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this ordinance;

Shall be guilty of a misdemeanor and shall be fined not more than Five Hundred Dollars (\$500.00) or imprisoned not more than six (6) months or both for each offense.



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B. All prosecutions under this Section must be commenced within five (5) years from the time of the offense complained of except in the case of failure to file a return or in the case of filing a false or fraudulent return, in which event the limitation of time within which prosecution must be commenced shall be ten (10) years from the date the return was due or the date the false or fraudulent return was filed.

C. The failure of any employer or person to receive or procure a return, declaration or other required form shall not excuse him from making any information return, or declaration, from filing such form, or from paying the tax.

SECTION 13. BOARD OF REVIEW.

A. A Board of Review, consisting of the Treasurer, President of Council and the Village Solicitor, is hereby created. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof with reference to the confidential character of information required to be disclosed by the ordinance shall apply to such matters as may be heard before the Board on appeal.

B. All rules and regulations and amendments or changes thereto, which are adopted by the Administrator under the authority conferred by this ordinance, must be approved by the Board of Review before the same become effective. The Board shall hear and pass on appeals from any ruling or decision of the Administrator, and, at the request of the taxpayer or Administrator, is empowered to substitute alternate methods of allocation.

C. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator. The request must be in writing and must state the alleged errors in the decision. The Board shall schedule a hearing within 45 days of receiving the request unless the taxpayer waives the hearing. The taxpayer may be represented at the hearing. The Board, on hearing, shall have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof. The Board must issue a decision within 90 days of the final hearing and send notice of its decision to the taxpayer within 15 days after issuing the decision.

D. Any person dissatisfied with any ruling or decision of the Board of Review may appeal therefrom to a court of competent jurisdiction within thirty (30) days from the announcement of such ruling or decision.

SECTION 14. ALLOCATION OF FUNDS.

The funds collected under the provisions of this ordinance shall be deposited in a special fund known as "Income Tax Fund" and said funds shall be disbursed in the following manner:

1. Such part thereof as shall be necessary to defray all costs of collecting the taxes and the cost of administering and enforcing the provisions thereof.

2. Not more than forty percent (40%) of the net available income tax receipts received annually shall be deposited in the General Fund to defray operating expenses of the Village.

3. At least sixty percent (60%) of net available income tax receipts received annually shall be deposited in the Permanent Improvement Fund to be used for capital improvement for the Village.

SECTION 15. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.

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A. Where a resident of Sugarcreek is subject to a municipal income tax in another municipality he shall not pay a total municipal income tax on the same income greater than the tax imposed at the higher rate.

B. Every individual taxpayer who resides in Sugarcreek who receives net profits, salaries, wages, commissions or other personal service compensation for work done or services performed or rendered outside of Sugarcreek, if it be made to appear that he has paid a municipal income tax on the same income taxable under this ordinance to another municipality, shall be allowed a credit against the tax imposed by this ordinance of the amount so paid by him or in his behalf to such other municipality. The credit shall not exceed the tax assessed by this ordinance on such income earned in such other municipality or municipalities where such tax is paid.

C. A claim for refund or credit under this section shall be made in such manner as the Administrator may be regulation provide.

**SECTION 16. SAVING CLAUSE.**

If any sentence, clause, section or part of this ordinance, or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this ordinance and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this ordinance. It is hereby declared to be the intention of the Council of Sugarcreek that this ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

**SECTION 17. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE.**

A. This ordinance shall continue effective insofar as the levy of taxes is concerned until repealed, and insofar as the collection of taxes levied hereunder and actions or proceedings for collecting any tax so levied or enforcing any provisions of this ordinance are concerned, it shall continue effective until all of said taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of said taxes or for the punishment of violations of this ordinance shall have been fully terminated, subject to the limitations contained in Sections 11 and 12 hereof.

B. Annual returns due for all or any part of the last effective year of this ordinance shall be due on the date provided in Sections 5 and 6 of this ordinance as though the same were continuing.

Section 2. This ordinance shall take effect at the earliest period allowed by law.

Passed: November 5, 2001

Jeri Middaugh  
Mayor

ATTEST Margaret Albie

I, Becky Criliw, Clerk/  
Treasurer of the Village  
Sugarcreek, Ohio hereby  
certify that the foregoing  
is a true and correct copy  
of Ordinance #01-1612;  
passed by Sugarcreek Vill  
Council on November 5, 20  
approved by the Mayor on  
November 5, 2001.

(Signature) Becky Criliw  
(Title) Clerk/Treasurer