

ORDINANCE 2012-20

**AN ORDINANCE AMENDING THE SUNBURY VILLAGE INCOME TAX CODE TO
REDUCE INTEREST ON UNPAID TAXES TO EIGHT PERCENT (8%) PER YEAR**

WHEREAS, pursuant to Chapter 181.11 of the Village of Sunbury Income Tax Code the Village of Sunbury currently charges interest on unpaid taxes at the rate of twenty-four (24%) percent per year; and

WHEREAS, Council now wishes to amend the amount of interest to be charged on unpaid taxes to a lesser rate.

NOW, THEREFORE BE IT ORDAINED by the Council for the Village of Sunbury, Delaware County, State of Ohio as follows:

SECTION I: Chapter 181.10(a) is hereby amended to read in its entirety as follows:

All taxes imposed by this Chapter which remain unpaid after having become due shall bear interest in addition to the amount of unpaid tax at the rate of eight percent (8%) per year and the tax payers upon whom such interest is imposed shall be liable, in addition thereto, to a penalty of fifteen percent (15%) of the amount of unpaid tax.

SECTION II: 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 meetings open to the public, and in compliance with all legal requirements, including Section 121.22 of the Ohio Revised Code.

WHEREFORE, this Ordinance shall take effect from and after the earliest time permitted by law.

VOTE ON ORDINANCE 2012-20

YEAS

NAYS

5

0

PASSED: January 16, 2013

Tommy Hatfield
Tommy Hatfield, Mayor

ATTEST:

Kathy Belcher
Kathy Belcher, Fiscal Officer

RITA

JAN 22 2013

Received

RITA

JAN 22 2013

Received

CERTIFICATION

I hereby certify on this 16 day of January, 2013
that the foregoing is a true and accurate copy of the Ordinance passed at the meeting held on
January 16, 2013, of the Village of Sunbury of the County of Delaware,
State of Ohio.

Kathy Becker
Fiscal Officer

This will
go into effect

February 16, 2013

Thanks,
Kathy Becker

TITLE SEVEN - Taxation
Chap. 181. Income Tax.

CHAPTER 181
Income Tax

EDITOR'S NOTE: Pursuant to Ordinance 98-028, passed September 9, 1999, the Village has entered into an agreement for participation in the Regional Council of Governments to allow for the future administration of the Village income tax.

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| 181.01 Purpose. | 181.14 Credit for tax paid to another municipality. (Repealed) |
| 181.02 Definitions. | 181.15 Saving clause. |
| 181.03 Imposition of tax. | 181.16 Collection of tax after termination of chapter. |
| 181.04 Effective period. | 181.17 Personal liability for filings and withholdings. |
| 181.05 Return and payment of tax. | 181.18 Contract validity. |
| 181.06 Collection at source. | 181.19 Mandatory registration. |
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| 181.08 Duties of the Director of Taxation. | 181.21 Registration of tenants by landlords. |
| 181.09 Investigative powers of the Director of Taxation. | 181.99 Penalty. |
| 181.10 Interest and penalties. | |
| 181.11 Collection of unpaid taxes and refunds of overpayments. | |
| 181.12 Exemptions. | |
| 181.13 Allocation of funds. | |

CROSS REFERENCES

Payroll deductions - see Ohio R. C. 9.42
Municipal income tax - see Ohio R. C. Ch. 718
State income tax - see Ohio R. C. Ch. 5747

181.01 PURPOSE.

To provide funds for the purpose of general Municipal operations, maintenance, new equipment, extension and enlargement of Municipal service and facilities and capital improvements of Sunbury there shall be, and is hereby levied a tax on salaries, wages, commissions and other compensation, and on net profits as hereinafter provided.
(Ord. 98-032. Passed 10-21-98.)

181.02 DEFINITIONS.

As used in this chapter, 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. The singular shall include the plural and the masculine gender shall include the feminine and neuter genders.

- (a) "Association" means a partnership, limited partnership, limited liability companies, or any other form of unincorporated enterprise, owned by two or more persons.
- (b) "Business" means any enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, estate, guardianship, association, corporation or any other entity.
- (c) "Corporation" means 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.
- (d) "Income Tax Director" (Also referred to as Director) means the Director of Taxation of Sunbury; or the person executing the duties of the aforesaid Director of Taxation.
- (e) "Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.
- (f) "Employer" means an individual, partnership, association, corporation, governmental body, governmental unit, governmental agency, fiduciary, trust, estate, guardianship, or any other entity whether or not organized or operating a business for profit, which employs one or more persons for a salary, wage, commission, or any other basis of compensation.
- (g) "Fiscal Year" means an accounting period of twelve months or less ending on any day other than December 31.
- (h) "Gross Receipts" means the total income from any source whatsoever.
- (i) "Net profits" means the net gain from the operation of a business, profession, enterprise or other activity, whether or not such business, profession, enterprise or other activity is conducted for profit or is ordinarily conducted for profit, 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 chapter, Federal, State or 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 chapter.
- (j) "Nonresident individual" means an individual domiciled outside of Sunbury.
- (k) "Nonresident unincorporated business entity" means an unincorporated business entity not having an office or place of business within Sunbury.
- (l) "Person" means every natural person, partnership, fiduciary, association, or corporation. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any unincorporated entity means the partners or members thereof, and as applied to corporations, the officers thereof.

- (m) "Place of Business" means 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.
- (n) "Resident" means an individual domiciled in Sunbury.
- (o) "Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within Sunbury.
- (p) "Taxable income" means wages, salaries, commissions, 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 this chapter.
- (q) "Sunbury" means the Village of Sunbury, County of Delaware, State of Ohio.
- (r) "Taxable year" means the calendar year, or the fiscal year upon the basis of which the net profits are to be computed under this chapter and, in the case of a return for a fractional part of a year the period for which such return is required to be made.
- (s) "Taxpayer" means a person, whether an individual, partnership, association, or any corporation or other entity, required hereunder to file a return or pay tax.
(Ord. 98-032. Passed 10-21-98.)

181.03 IMPOSITION OF TAX.

(a) An annual tax for the purposes set forth in Section 181.01 hereof shall be and hereby is levied on and after July 1, 1981 at the rate of one percent (1%) on the following:

- (1) On all salaries, wages, tips, rents, gratuities, moneys gained by gambling or gaming venture, and moneys gained by illegal activities, lottery winnings, commissions and/or any other compensation earned or received during the effective period of this chapter by residents of Sunbury.
- (2) On all salaries, wages, tips, gratuities, rents, and moneys gained by gambling or gaming ventures, and moneys gained by illegal activities, lottery winnings, commissions and/or any other compensation earned or received during the effective period of this chapter by nonresidents for work done or services performed or rendered, or participation in any activity or activities, including purchase of lottery ticket or tickets, participation in any contest or participation in any gambling or gaming activity or any illegal activity in Sunbury.
- (3) A. On the portion attributable to Sunbury of the net profits earned during the effective period of this chapter of all resident unincorporated businesses, professions or other entities, derived from sales made, work done, services performed or rendered and business or other activities conducted in Sunbury.
B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a resident unincorporated business entity not attributable to Sunbury and not levied against such unincorporated business entity.

- (4) A. On the portion attributable to Sunbury of the net profits earned during the effective period of this chapter of all non-residents unincorporated business, professions or other entities, derived from sales made, work done or services performed or rendered and business or other activities conducted in Sunbury whether or not such unincorporated business entity has an office or place of business in Sunbury.
- B. On the portion of the distributive share of the net profits earned during the effective period of this chapter of a resident partner or owner of a nonresident unincorporated business entity not attributable to Sunbury and not levied against such unincorporated business entity.
- (5) On the portion attributable to Sunbury of the net profits earned during the effective period of this chapter of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in Sunbury, whether or not such corporations have an office or place of business in Sunbury.

(b) The portion of the net profits attributable to Sunbury of a taxpayer conducting a business, profession or other activity both within and without the boundaries of Sunbury shall be determined as provided in Ohio R.C. 718.02.

(c) If a net operating loss has been sustained in any taxable year, such losses may not be carried forward or backward to any other taxable year.

(d) Consolidated Returns. In the case of a corporation that carried on transactions with its stockholders or with other corporations related by stock ownership, interlocking directorates, or some other method, or in case any person operates a division, branch, factory, office, laboratory or activity within Sunbury constituting a portion only of its total business the Director shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to Sunbury. If the Director finds net profits are not properly allocated to Sunbury by reason of transactions with stockholders or with other corporations related by stock ownership, interlocking directorates, or transactions with such division, branch, factory, office, laboratory or activity or by some other method, he shall make such allocation as he deems appropriate to produce a fair and proper allocation of net profits to Sunbury.

(e) Payments made to current and former employees by an employer as accrued benefits and/or vacation wages or as a bonus or moving expense reimbursement is taxable income. Payments made to any current or former employee by an employer under a wage continuation plan during periods of disability or sickness, is taxable income.

(f) In the taxation of income which is subject to tax, if the books and records of a taxpayer conducting a business both within and without the boundaries of Sunbury disclose with reasonable accuracy that portion of its net profit which is attributable to that part of the business conducted within Sunbury, then only that portion shall be considered as having a taxable situs in Sunbury for purposes of being taxable and taxed by Sunbury. Absent such records, net profit from a business conducted both within and without the boundaries of Sunbury shall be conclusively presumed to have a taxable situs in Sunbury for purposes of being taxable and taxed by Sunbury in the same proportion as the average, the means of determining which is hereinbelow described:

- (1) The average net book value of the real property and the tangible personal property owned or used by the taxpayer in the business in Sunbury during the taxable period to the average net book value of all the real property and tangible personal property owned or used both by the taxpayer in the business during the same period, wherever situated. As used in this subsection, "real property" included property rented or leased by the taxpayer and the value of such property shall be determined by multiplying the annual rental thereon by eight;
- (2) Wages, salaries, and other compensation paid during the taxable period to persons employed in the business for services performed in Sunbury, to wages, salaries, or other compensation paid during the same period to persons employed in the business, wherever their services are performed;
- (3) Gross receipts of the business from sales made and services performed during the taxable period in Sunbury to gross receipts of the business during the same period from sales and service wherever made or performed.

(g) In the event the foregoing allocation formula does not produce an equitable result, another basis may, under uniform regulations, be substituted by the Director or his delegate in order to produce such equitable result.

(h) As used in this chapter, "Sales made in Sunbury" means:

- (1) All sales of tangible personal property which is delivered within Sunbury regardless of where title passes if shipped or delivered from a stock of goods within Sunbury.
- (2) All sales of tangible personal property which is delivered within Sunbury, regardless of where title passes, even though transported from a point outside Sunbury if the taxpayer is regularly engaged through its own employees in the solicitation or promotion of sales within Sunbury and the sales result from such solicitation or promotion.
- (3) All sales of tangible personal property which is shipped from a place within Sunbury to purchaser or purchasers outside Sunbury, regardless of where title passes, if the taxpayer is not, through its own employees, regularly engaged in the solicitation or promotion of sales at the place where delivery is made.

(Ord. 98-032. Passed 10-21-98.)

181.04 EFFECTIVE PERIOD.

The tax 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 or other activities earned on and after January 1, 1974.
(Ord. 98-032. Passed 10-21-98.)

181.05 RETURN AND PAYMENT OF TAX.

(a) Each taxpayer who engages in business or whose salaries, wages, commissions, rents, gambling or gaming winnings, lottery winnings, tips, gratuities, money or anything of value gained or acquired as a result of illegal activities and/or other compensation are subject to the tax imposed by this chapter shall, whether or not a tax be due thereon, make and file a return (also known as a Sunbury Income Tax Return) with the office of the Director on a form furnished by or obtainable from the office of the Director on or before April 30 of each year, setting forth the aggregate amount of salaries, wages, commissions, rents, gambling or gaming winnings, lottery winnings, tips, gratuities, money or the value of anything gained or acquired as a result of illegal activities, and/or other compensation earned and/or net profits earned and/or gross income from any business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Director may require. Each person who resides in Sunbury who is eighteen years of age or older, shall file the return as set forth in this section. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four months from the end of such fiscal year or other period. The Director is hereby authorized to provide that the return to an employer, showing the amount of tax deducted by the employer from the salary, wages, commissions, bonuses, vacation pay or other compensation of an employee and paid by the employer to the Director shall be accepted as the return required of any employee whose sole income, subject to tax under this chapter is such salary, wages, commissions, bonuses, vacation pay or other compensation. A husband and wife, in any tax year, may elect to file separate or joint returns. Each resident of Sunbury who does not make and file an annual income tax return shall make and file an annual exemption certificate on the form prescribed by the Director; this exemption certificate shall be filed on or before the fifteenth day of May of each year; each resident who is required to file an annual exemption certificate and who violates this requirement shall be subject to a fine of ten dollars (\$10.00) for each violation; the fine shall be separate for each day the person remains and is in violation. Each taxpayer who does not file an annual return as required herein shall be liable for a penalty of twenty-five dollars (\$25.00) for each year or portion thereof that the annual return is not filed, until filed and the penalty paid in full.

(b) The return shall be filed with the Director on a form or forms furnished by or obtainable upon request from such Director setting forth:

- (1) The aggregate amounts of salaries, wages, commissions, rents and other compensation, including but not limited to vacation pay, accrued benefits and bonuses earned and/or net profits earned and/or gross income from such business less allowable expenses in the acquisition of such gross income earned during the preceding year and subject to the tax, together with such other pertinent information as the Director may require. When the return is made for a fiscal year or other period different from the calendar year, however, the return shall be made on or before the last day of the fourth month after the close of such fiscal year or other period.

- (2) The amount of the tax imposed by this chapter on such earnings and profits; and
- (3) Such other pertinent statements, information returns, or other information as the Director may require.
- (4) Each taxpayer who resides within Sunbury is accountable for taxes on all his or her income whether earned in or out of Sunbury.
A nonresident's income is only subject to the Sunbury Income Tax to the extent that income was earned within Sunbury and therefore the taxpayer can deduct only those losses by his or her business within Sunbury.
These same provisions shall apply to joint returns filed by husband and wife.
- (5) The election amount taken as IRS Section 179 expense (or any amendment thereto) is not an allowable deduction for corporations or partnerships against income subject to tax under this chapter.
- (6) No deduction is permitted against income subject to tax under this chapter for any Form 1040, Schedule A itemized deduction.

(c) The Director may extend the time for filing of the annual return upon the request of the taxpayer for a period of not to exceed six months, or one month beyond any extension requested of or granted by the Internal Revenue Service for the filing of the Federal income tax return. All requests for an extension of time to file an annual return shall be in writing and filed with the Director by April 30. Requests for extensions shall be accompanied by copies of the federal extension form where a federal extension has been requested. In addition, the request for extension shall also be accompanied with a tentative return, accompanied by payment of the amount of tax shown to be due thereon. Requests for extension of the time to file an annual return does not extend the time required to file quarterly estimated returns. No penalty or interest shall be assessed in those cases in which the annual 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 Director 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 181.06 of this chapter, or where any portion of the tax shall have been paid by the taxpayer pursuant to the provisions of Section 181.07, or where an income tax has been paid to another municipality credit for the amount so paid in accordance with Section 181.14 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 such return.
- (2) A taxpayer who has overpaid the amount of tax to which Sunbury is entitled under the provisions of this chapter may have such overpayment applied against any subsequent liability hereunder or, at his election indicated on the return, such overpayment (or part thereof) shall be refunded, provided further that no amount of less than one dollar (\$1.00) will be refunded or collected.

- (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 or refund of tax overpaid, subject to the requirements and/or limitations contained in Sections 181.11 and 181.14. Such amended returns shall be on a form obtainable on request from the Director. A taxpayer may not change the method of accounting or apportionment or net profits after the due date for filing the original return.
 - (2) Within three months from the final determination of any federal tax liability affecting the taxpayer's Sunbury tax liability, such taxpayer shall make and file an amended Sunbury return showing income subject to the Sunbury 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.
 - (3) Within thirty days of receiving a tax refund from another municipality for which credit has been claimed on a taxpayer's Sunbury return, as permitted by Section 181.14, such taxpayer shall make and file an amended Sunbury return and pay any additional tax shown thereon. No refund shall be allowed unless a written request is presented to the Director or his delegate within three years of the date the taxes were due.
- (f)
 - (1) Commencing with taxable years beginning subsequent to December 31, 1995 the net loss from an unincorporated business activity may not be used to offset salaries, wages, commissions or other compensation. However, if a taxpayer is engaged in two or more taxable business activities to be included in the same return, the net loss of one unincorporated business activity (except any portion of a loss separately reportable for municipal tax purposes to another taxing entity) may be used to offset the profits of the other unincorporated business activity(ies) for purposes of arriving at overall net profits.
 - (2) A nonresident's income is only subject to the Sunbury income tax to the extent it was earned within Sunbury.

(g) Affiliated corporations may not deduct a loss from any other corporation having a taxable profit and operations of any affiliated corporation having a loss may not be taken into consideration in computing net profits or business allocation percentage formula.

(h) A taxpayer who pays their business expenses from their commissions or other compensation, without reimbursement from their employer, may deduct from their gross commissions or other compensation business expenses allowed by the Internal Revenue Service for Federal Income Tax purposes, but only to the extent that such expenses are incurred in earning commissions or other compensation subject to the tax imposed by this section.
(Ord. 98-032. Passed 10-21-98.)

181.06 COLLECTION AT SOURCE.

(a) Each employer located within or doing business within the municipal corporate limits of Sunbury shall deduct at the time of payment of such salaries, wages, commissions or other compensation, the tax of one percent of the gross salaries, wages, commissions or other compensation due by the employer to the employee, paid within Sunbury or for work performed in Sunbury, and shall, on or before the last day of the month following the close of each calendar quarter, make a return showing the amount of taxes so deducted and a record of payments showing that all taxes deducted during the quarter have been paid to Sunbury in accordance with the payment requirements of this section. 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) Employers shall pay to Sunbury all income taxes withheld or required to be deducted and withheld on either a monthly or quarterly basis depending on the amount of taxes involved according to the following payment schedule.

- (1) Monthly payments of the taxes withheld are to be made by an employer if
 - (i) the total taxes deducted in the prior calendar year were \$6,000 or more,
 - or (ii) the amount of taxes deducted for any month in the preceding quarter exceeded \$500. Such payments shall be paid to Sunbury within five banking days after the last day of each month.
- (2) All employers not required to make monthly payments of taxes withheld under this section and except as provided in subparagraph (e) below, shall make quarterly payments no later than the last day of the month following the end of each quarter.

(c) Every employer or officer of a corporation is deemed to be a trustee for Sunbury in collecting and holding the tax required under this chapter to be withheld and the funds so collected by such withholding are deemed to be trust funds.

(d) Each employer who maintains a branch place of business in Sunbury along with other branches outside Sunbury shall withhold the tax from employees residing in Sunbury but working at another branch of the employer, even though payroll records and place of payment of wages, earnings, bonuses, and vacation pay are outside Sunbury.

(e) Each employer doing business within Sunbury on a temporary basis shall on a monthly basis pay to Sunbury all income taxes withheld or required to be withheld regardless of the amount of taxes involved. Such payment shall be paid to Sunbury within fifteen days of the end of each calendar month. An employer is "doing business within Sunbury on a temporary basis" when the employer maintains a place of business in Sunbury, or does business in Sunbury, for a period which the employer does not expect to exceed one year.

(f) Each employee shall make and file a return on a form furnished by the Director, showing the amounts of tax deducted by the employer from the salaries, wages, commissions, vacation pay, bonuses or any other compensation of any employee, payable and/or paid by the employee to Sunbury. Such employer's return shall be accepted as the return required of an employee whose sole income subject to the tax under this chapter is the full compensation reported to Sunbury on the return of the employer.

(g) Each employer on or before January 31, unless written request for thirty days extension is made to and granted by the Director following any calendar year in which such deductions have been made, or should have been made by any employer, shall file with the Director or his delegate an information return (Sunbury Withholding Statement of Wages Paid and Sunbury Income Tax Withheld), for each employee from whom income tax has been or should have been withheld showing the name and address of the employee, the total amount of salaries, wages, commissions and other compensation paid to the employee during the year, and the amount of Sunbury income tax withheld from each employee. In addition, each Form (W-2) shall show the employer's name, address, and Sunbury account number. An adding machine tape or list of amount of tax withheld and taxable wages as shown on the W-2's shall be attached with the number of W-2's shown. Any return not so filed shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains unfiled after its due date shall be subject to the penalties provided under Section 181.99.

(h) In addition to the above wage reporting requirements, any person paying money to an individual or independent contractor shall report such payment if the information should be reported on Federal Form 1099 and filed yearly with the Director on or before February 28th. Any return not so filed shall be subject to a late filing penalty of five dollars (\$5.00) per day for each and every day they remain in violation to a maximum of three hundred dollars (\$300.00). In addition to the late filing penalty, any return which remains unfiled after its due date shall be subject to the penalties provided under Section 181.99.
(Ord. 98-032. Passed 10-21-98.)

181.07 DECLARATIONS.

(a) Every person who anticipates any taxable income which is not subject to Section 181.06 hereof, or who engages in any business, profession, enterprise or activity subject to the tax imposed by Section 181.03 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 Sunbury in accordance with Section 181.06 hereof, such person need not file a declaration.

In each tax year every person who anticipates any taxable income, or who engages in any business, profession, enterprise, or activity 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, if the tax can reasonably be expected to exceed fifty dollars (\$50.00).

- (b)
 - (1) Such declaration shall be filed on or before April 30 of each year during the life of this chapter or within four 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 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 Director, provided, however, credit shall be taken for Sunbury tax to be withheld from any portion of such income. In accordance with the provisions of Section 181.14, 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 to Sunbury shall be accompanied by a payment of at least one-fourth of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the seventh, tenth, and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amended declaration has been filed, the unpaid balance 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 Sunbury shall be paid therewith in accordance with the provisions of Section 181.05.
 - (f) A declaration of estimated tax which is less than ninety percent (90%) of the tax due as shown on the annual return shall not be considered filed in good faith. The difference shall be subject to penalties and interest as provided for in Section 181.99.
(Ord. 98-032. Passed 10-21-98.)

181.08 DUTIES OF THE DIRECTOR OF TAXATION.

- (a)
 - (1) It shall be the duty of the Director to receive the tax imposed by this chapter in the manner prescribed herein from the taxpayers: to keep an accurate record thereof; and to report all monies so received.
 - (2) It shall be the duty of the Director to enforce payment of all taxes owed to Sunbury, to keep accurate records for a minimum of five 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) The Director is hereby charged with the enforcement of the provisions of this chapter, and is hereby empowered, to adopt and promulgate and to enforce rules and regulations relating to any matter or thing pertaining to the collection of taxes and the administration and enforcement of the provisions of this chapter including provisions for the re-examination and correction of returns.

The Director 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 Director 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 this chapter. 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 181.11 and 181.99 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 Director may determine the amount of tax appearing to be due Sunbury 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) The Director shall have the power to compromise any interest or penalty, or both, imposed by Section 181.10.
(Ord. 98-032. Passed 10-21-98.)

181.09 INVESTIGATIVE POWERS OF THE DIRECTOR OF TAXATION.

(a) The Director, or any authorized employee, is hereby authorized to examine the books, papers, records and Federal income tax return of any employer or of any taxpayer or person subject to, or whom the Director believes is subject to the provisions of this chapter, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due under this chapter. Every such employer, supposed employer, taxpayer or supposed taxpayer is hereby directed and required to furnish upon written request by the Director, or his duly authorized agent or employee, the means, facilities, and opportunity for making such examinations and investigations as are hereby authorized.

(b) The Director 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 Director authorized hereby shall be deemed a violation of this chapter, punishable as provided in Section 181.99.

(d) Any information gained as the result of any returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential, except for official purposes, or except in accordance with proper judicial order. Any person divulging such information in violation of this chapter shall, upon conviction thereof, be deemed guilty of a misdemeanor and shall be subject to a fine and penalty of five hundred dollars (\$500.00) and imprisonment for not more than six months. Each disclosure shall constitute a separate offense. In addition to the above penalty, any employee of Sunbury who violates the provisions of this section relative to the disclosure of confidential information shall be guilty of an offense punishable by immediate dismissal.
(Ord. 98-032. Passed 10-21-98.)

181.10 INTEREST AND PENALTIES.

(a) All taxes imposed by this chapter which remain unpaid after having become due shall bear interest in addition to the amount of unpaid tax at the rate of twenty-four percent (24%) per year, and the taxpayers upon whom such interest is imposed shall be liable, in addition thereto, to a penalty of fifteen percent (15%) of the amount of the unpaid tax.

(b) Each employer who fails to remit taxes withheld, or which should have been withheld in accordance with the provisions of this chapter, shall be liable to Sunbury as a penalty therefor five percent (5%) per month of the balance of such unremitted taxes; in no event shall the penalty be less than five dollars (\$5.00) for each quarter of any tax year and continuing thereafter until paid. Any taxpayer or employer shall have twenty (20) days after assessment of a proposed penalty and/or interest charge to file a written protest with the Director or his delegate showing cause why such penalty and/or interest should not be imposed.

(c) A penalty shall not be assessed on any additional tax assessment made by the Director when a return has been filed in good faith and the tax paid thereon within the time prescribed by the Director.

(d) Neither penalty nor interest shall, in the absence of fraud, be assessed on additional tax assessment resulting from a Federal (IRS) Audit, provided an amended return is filed and the additional Sunbury income tax is paid within three months after final determination of the Federal (IRS) tax liability. (Ord. 98-032. Passed 10-21-98.)

181.11 COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS.

(a) All taxes imposed by this chapter 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 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 Director shall be one 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 years from the date which such payment was made or the return was due, or within three months after final determination of the Federal tax liability, whichever is later.
(Ord. 98-032. Passed 10-21-98.)

181.12 EXEMPTIONS.

The provisions of this chapter shall not be construed to tax the active military pay or allowances of members of the armed forces of the United States, or the income of religious, fraternal, charitable, scientific, literary or educational institutions to the extent that such income is derived from tax exempt real estate, tax exempt tangible or intangible property or tax exempt activities. Alimony, child support, interest, dividends, capital gains not reported on tax form 4797, Social Security benefits, workers' compensation benefits, state employee benefits, annuities at the time of distribution, and pension income, including lump sum distributions, are all also not taxable under the provisions of this chapter.

The tax provided for herein shall not be levied on the personal earnings of any natural person under eighteen years of age.
(Ord. 98-032. Passed 10-21-98.)

181.13 ALLOCATION OF FUNDS.

The funds collected under the provisions of this chapter shall be allocated in such manner as prescribed by ordinances adopted by Council.
(Ord. 98-032. Passed 10-21-98.)

**181.14 CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY.
(REPEALED)**

(EDITOR'S NOTE: This section was repealed by Ordinance 2002-60, passed November 20, 2002.)

181.15 SAVING CLAUSE.

If any sentence, clause, section or part of this chapter or any tax against any individual or any of the several groups specified herein, is found to be unconstitutional, illegal or invalid as written or applied, such unconstitutionality, illegality or invalidity shall affect only such clause, sentence, section or part of this chapter and shall not affect or impair any of the remaining provisions, sentences, clauses, sections or other parts of this chapter. It is hereby declared to be the intention of Council that this chapter would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.
(Ord. 98-032. Passed 10-21-98.)

181.16 COLLECTION OF TAX AFTER TERMINATION OF CHAPTER.

(a) This chapter 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 chapter are concerned, it shall continue effective until all of such taxes levied in the aforesaid period are fully paid and any and all suits and prosecutions for the collection of the taxes or for the punishment of violations of this chapter shall have been fully terminated, subject to the limitations contained in Sections 181.11 and 181.99.

(b) Annual returns due for all or any part of the last effective year of this chapter shall be due on the date provided in Sections 181.05 and 181.06 as though the same were continuing.
(Ord. 98-032. Passed 10-21-98.)

181.17 PERSONAL LIABILITY FOR FILINGS AND WITHHOLDINGS.

If the taxpayer is not an individual, the officer, partner, fiduciary or any other person having control or supervision of, or having the responsibility for filing any tax return or paying any taxes or withholdings to Sunbury shall be personally liable for the failure to file any report or tax return or the failure to pay the taxes or withholding due as required in this chapter; the dissolution of a corporation or the termination of any legal entity does not discharge the personal liability of the officer, partner, fiduciary or any other person having control or supervision of, or having the responsibility for filing any report or tax return or for paying any taxes or withholdings. (Ord. 98-032. Passed 10-21-98.)

181.18 CONTRACT VALIDITY.

No contract on behalf of Sunbury, Ohio for work or improvements of Sunbury shall be valid or binding on Sunbury unless the contract contains the following provisions:

"Said _____ hereby further agrees
(contractor)

to withhold all Sunbury income taxes due or payable under the provisions of the Income Tax Ordinance of Sunbury, Ohio, for all compensation paid to its employees and further agrees that any of its sub-contractors shall be required to agree to withhold any such income taxes due Sunbury, Ohio under such Income Tax Ordinance for services performed under this contract."

(Ord. 98-032. Passed 10-21-98.)

181.19 MANDATORY REGISTRATION.

(a) Each new resident of Sunbury, Ohio shall register with the office of the Income Tax Director of Sunbury within thirty days of establishing residence in Sunbury in order that the Director will be able to maintain adequate and proper income tax records with regard to each resident of Sunbury.

(b) Each employer, agent, general contractor, contractor, sub-contractor who does work, contracts for work, or employs employees in Sunbury, Ohio from and after thirty days of the enactment of this section, shall within five days prior to commencement of such work or employment register with the Director and present to, and thereafter maintain up to date an accurate list of the full names, addresses, social security numbers or federal employment I.D. numbers, of all employees, sub-contractors, contractors, agents or others to whom the employer, agent, general contractor, contractor or sub-contractor shall pay moneys for services rendered to or on behalf of the employer, agent, general contractor, contractor or sub-contractor and whose wages, earnings, profits or income is not at that time already subject to the withholding of the Sunbury Income Tax.

(c) From and after thirty days of the enactment of this section each landlord, owner of real property, or agent of the landlord or owner of real property who rents any real property in Sunbury, Ohio to a tenant or tenants shall provide an up to date list, and shall maintain the list as updated, of the tenants to the office of the Income Tax Director, unless each tenant is and shall be and remain responsible for the tenant's water and sewer charges to Sunbury.

(d) Any person who violates this section or any part thereof shall be subject to a fine of five dollars (\$5.00) for each violation; the fine shall be separate for each day the person remains and is in violation.

(Ord. 98-032. Passed 10-21-98.)

181.20 MANDATORY FILING.

All persons residing or doing business within Sunbury shall file a tax return on a form prescribed by the Director for the collection of the Sunbury income tax. Any person who fails to make and/or file a return when due shall be subject to a late filing penalty of twenty-five dollars (\$25.00). In addition to the late filing penalty, any return which remains unfiled after its due date shall be subject to the interest and penalties provided under Sections 181.10 and 181.99. (Ord. 98-032. Passed 10-21-98.)

181.21 REGISTRATION OF TENANTS BY LANDLORDS.

(a) Each owner, or the duly designated agent thereof, of one or more units of real property located within the Village of Sunbury which are rented or available for rent commencing March 15, 2003, and on or before March 15th of each year thereafter, and on September 15, 2003, and on or before September 15th of each year thereafter, shall submit to the Village Administrator, or the designee thereof, a list of tenants presently occupying those rental units, the date upon which each tenant began occupying their respective rental unit, and a list indicating those units which are vacant. For the purpose of this section, "Rental Units" includes any unit of real property which is subject to a rental agreement, whether oral or written, for residential, commercial or industrial purposes.

(b) If a tenant's name appears on one six-month report and vacates the unit prior to the next reporting period, a forwarding address and the date the tenant vacated the unit is to be listed on the next six-month report.

(c) Any person who fails to file this report in violation of this Ordinance shall be subject to a fine of five dollars (\$5.00) per day for each and every day they remain in violation. (Ord. 2002-58. Passed 11-13-02.)

181.99 PENALTY.

(a) Any person who shall:

- (1) Fail, neglect or refuse to make any return or declaration required by this chapter; 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 chapter; or
- (4) Fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Director; or
- (5) Refuse to permit the Director or any duly authorized agent or employee to examine his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer; or
- (6) Fail to appear before the Director and to produce his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Director; or
- (7) Refuse to disclose to the Director any information with respect to the income or net profits taxed hereby; or
- (8) Fail to comply with the provisions of this chapter or any order or subpoena of the Director authorized; 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 of 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 the Sunbury tax withheld, or to knowingly give the Director 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 chapter,

shall be guilty of a minor misdemeanor for a first offense and for a second or subsequent offense shall be guilty of a third degree misdemeanor.

(b) When a corporation or any organization other than a natural person is convicted of an offense pursuant to this chapter, it shall be fined not more than one thousand dollars (\$1,000) for the first offense and shall be fined not more than five thousand dollars (\$5,000) for a second or subsequent offense.

(c) All prosecutions under this section must be commenced within three 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 the time within which prosecution must be commenced shall be ten years from the date the return was due or the date the false or fraudulent return was filed.

(d) 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, return or declaration, from filing such form, or from paying the tax.
(Ord. 98-032. Passed 10-21-98.)