ORDINANCE NO. 57-2003

EFFECTIVE JANUARY 1, 2004 FOR THE 2004 TAX YEAR AND THEREAFTER REPEALING ORDINANCE NO. 103-2000 OF THE CITY OF BUCYRUS AND ENACTING AN ORDINANCE LEVYING A TAX TO PROVIDE FUNDS FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS, MAINTENANCE OF EQUIPMENT, NEW EQUIPMENT EXTENSION, ENLARGEMENT AND IMPROVEMENT OF MUNICIPAL SERVICES AND FACILITIES AND CAPITAL IMPROVEMENTS, ON ALL QUALIFYING WAGES, COMMISSIONS AND OTHER COMPENSATION, AND ON NET PROFITS AND OTHER TAXABLE INCOME AS HEREINAFTER PROVIDED; REQUIRING THE FILING OF RETURNS AND FURNISHING OF INFORMATION BY EMPLOYERS AND ALL THOSE SUBJECT TO SAID TAX; IMPOSING ON EMPLOYERS THE DUTY OF COLLECTING THE TAX AT THE SOURCE AND PAYING THE SAME TO THE CITY OF BUCYRUS; PROVIDING FOR THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF SAID TAX; DECLARING VIOLATION THEREOF TO BE A MISDEMEANOR AND IMPOSING PENALTIES THEREFOR; AND DECLARING AN EMERGENCY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF BUCYRUS, STATE OF OHIO, two-thirds of all members elected thereto concurring:

SECTION 1. That Ordinance No. 103-2000 of the City of Bucyrus, Ohio as well as any amendments heretofore enacted at various times shall remain in effect for the 2003 tax year as well as all previous years subject to said Ordinance. That Ordinance No. 103-2000 of the City of Bucyrus, Ohio, as well as any amendments heretofore enacted at various times is hereby repealed starting the 2004 tax year, the same which read as follows:-

"SECTION 1. 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:

A. ASSOCIATION - A partnership, limited liability partnership, limited liability company, Subchapter S corporation as defined in the Federal tax code, or any other form of unincorporated enterprise, owned by two (2) or more persons.

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

C. CORPORATION - A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, foreign country or dependency, but not including Subchapter S corporation.

D. DOMICILE – A principal residence that a taxpayer intends to use for an indefinite period of time and to which whenever he is absent he intends to return. A taxpayer

has only one domicile even though he may have more than one residence.

E. EMPLOYEE – One who works for wages, salary, commission or other type of compensation in the service of an employer.

F. EMPLOYER - An individual, partnership, association, corporation, governmental body, unit or agency, or any other entity, whether or not organized for profit, who, or that employs one (1) or more persons on a salary, wage, commission or other compensation basis.

G. NET PROFITS - The net gain from the operation of a business, profession, enterprise or other activity after provision for all ordinary, reasonable and necessary expenses either paid or accrued in accordance with the accounting system used for Federal income tax purposes, without deduction of taxes imposed by this Ordinance, Federal, state, municipal or any other taxes based on income; exclusive of the amount of Ohio franchise tax computed on a net worth basis, in the case of an association without deduction of salaries paid to partners or other owners, and otherwise adjusted to the requirements of this Ordinance and Resolution No. 253-2000 establishing the Rules and Regulations adopted by the Council of the City of Bucyrus. Capital gains and losses from exchange or other disposition of tangible personal property shall not be considered in arriving at net profits. However, any amount or value realized on a sale, exchange or other disposition of tangible personal property or real property used in business in excess of book value shall be treated as taxable income under the Ordinance to the extent of depreciation allowed or allowable.

H. NON-RESIDENT - An individual domiciled outside the City of Bucyrus.

I. NON-RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity not having an office or place of business within the City of Bucyrus.

J. OTHER ENTITY. The term "other entity" means any person or unincorporated body not previously named or defined.

K. PERSON - Every natural person, partnership, [sic] partnership, corporation, fiduciary or association. Whenever used in any clause prescribing and imposing a penalty, the term "person" as applied to any association, shall mean the partners or members thereof, and as applied to corporation, the officers thereof.

L. PLACE OF BUSINESS – Any bona fide 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.

M. RESIDENT - An individual domiciled in the City of Bucyrus.

N. RESIDENT UNINCORPORATED BUSINESS ENTITY – An unincorporated business entity having an office or place of business within the City of Bucyrus.

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

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

SECTION 2. IMPOSITION OF TAX

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment extension, enlargement and improvement of municipal services

and facilities and capital improvements of the City of Bucyrus, there be, and hereby is levied a tax upon the earnings for an additional period of six (6) years beyond July 1, 2001 at the rate of one and one-half per cent (1 ½%) upon the following:

A. On all salaries, wages, commissions, and other compensation earned on and after January 1, 2001, by resident individuals of the City of Bucyrus.

B. On all salaries, wages, commissions and other compensation earned on and after January 1, 2001, by non-resident individuals of the City of Bucyrus, for work done or services performed or rendered in the City of Bucyrus, subject to the 12-day occasional entry provision outlined in Section 14.

C. On the net profits attributable to Bucyrus earned on and after January 1, 2001, of all resident unincorporated businesses, professions, and other activities derived from work done or services rendered or performed and business or other activities conducted in the City of Bucyrus.

D. On the portion of the distributive share of the net profits earned on and after January 1, 2001, of a resident individual, partner or owner of a resident unincorporated business entity not attributable to Bucyrus and not levied against such unincorporated business entity.

E. On the net profits attributable to Bucyrus earned on and after January 1, 2001, of all non-resident unincorporated businesses, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City of Bucyrus.

F. On the portion of the distributive share of the net profits earned on and after January 1, 2001, of a resident individual, partner or owner of a non-resident unincorporated business entity not attributable to Bucyrus and not levied against such unincorporated business entity.

G. On the net profits earned on and after January 1, 2001, of all corporations derived from work done or services performed or rendered and business or other activities conducted in the City of Bucyrus.

H. The portion of the net profits attributable to the City of Bucyrus of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Bucyrus 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 City of Bucyrus pursuant to this Ordinance.

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

SECTION 3. EFFECTIVE DATE

Said tax shall be levied, collected and paid with respect to salaries, wages, commissions and other compensation earned on and after January 1, 2001, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, 2001. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, 2001, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal basis. Prior to the 2001 tax year or January 1, 2001, taxable income shall be calculated based upon the former Ordinance and Resolution then in effect.

SECTION 4. RECIPROCITY PROVISION - CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the City of Bucyrus but who receives net

profits, salaries, wages, commissions or other personal service compensation for work done, or services performed or rendered outside of said City, if it be made to appear that he has paid a municipal income tax on such net profits, salaries, wages, commissions or other compensation to another municipality, shall be allowed a credit against the tax imposed by this Ordinance of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such net profit, salary, wages, commissions or compensation earned in such other municipality or municipalities where such tax is paid. No credit shall be given for taxes paid in error to another municipality. If a taxpayer receives a refund from another municipality for income taxes paid in error to that municipality, the amount of tax due the City of Bucyrus must be paid to the City Income Tax Administrator within thirty (30) days of receiving said refund.

SECTION 5. ADMINISTRATION - DUTIES OF THE CITY TREASURER, CITY AUDITOR AND CITY INCOME TAX ADMINISTRATOR

A. It shall be the duty of the City Treasurer 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. All cashiers handling tax monies shall be subject directly to the City Auditor and shall give daily accountings to the City Treasurer.

B. A Department of Taxation is hereby created within the office of the City of Auditor of the City of Bucyrus. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the City of Bucyrus, and shall receive such salary as may be determined by City Council. The City Auditor, save and except that in the case of the City Income Tax Administrator, shall be responsible for making of appointment of all Tax Department personnel. The City Auditor shall make a recommendation to City Council for the appointment by Council of the City Income Tax Department Administrator. The Department of Taxation shall be charged with the administration and operation of this Ordinance, under the direction of the City Income Tax Administrator. In the absence of the City Income Tax Administrator, the City Auditor shall assume the responsibilities of said City Income Tax Administrator as provided herein. The City Auditor shall also make a written report to Council annually of all monies collected hereunder during the preceding year.

C. It shall be the duty of the City Income Tax Administrator to enforce payment of all taxes owed to the City of Bucyrus, 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.

D. Said City Income Tax Administrator is hereby charged with the enforcement of the provisions of this Ordinance and to enforce the rules and regulations of Council of the City of Bucyrus, Ohio, relating to any matter or thing pertaining to the collection of City income tax taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns and payments.

E. The City Income Tax Administrator shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of said receipt. The City Income Tax Administrator shall likewise purchase all equipment, supplies and material for the Department of Taxation subject to the approval of Council.

F. 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 City Income Tax Administrator may determine the amount of tax appearing to be due the City of Bucyrus from the taxpayer and shall send to such taxpayer a written statement showing the amount of tax do determined, together with interest and penalties thereon, if any.

G. The City Income Tax Administrator shall have the power to compromise, whether in

full or in part, any interest or penalty, or both, imposed by this Ordinance. The City Income Tax Administrator may establish reasonable guidelines governing such abatement of penalties, interest and late filing fees.

SECTION 6. INVESTIGATIVE POWERS OF THE CITY INCOME TAX ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The City Income Tax Administrator or duly authorized agent or employee, is hereby authorized to examine the books, papers and records of any employer, or of any taxpayer or person subject to the tax, or believed to be subject to the provisions of this Ordinance and the Rules and Regulations adopted by the Council of the City of Bucyrus, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the City Income Tax Administrator of his duly authorized agent or employee, within thirty (30) days following a written request by the City Income Tax Administrator or his duly authorized agent or employee, the means, facilities, and opportunity for making such examination and investigations as are hereby authorized.

B. The City Income Tax Administrator or duly authorized agent or employee, is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been reported for taxation, and for this purpose may compel the production of books, Federal income tax returns, records and the attendance of all persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income.

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 by any officer, agent or employee of a persons 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 any order or subpoena of the City Income Tax Administrator authorized hereby shall be deemed a violation of this Ordinance, punishable as provided in Section 8 hereof.

D. Tax returns, investigations, hearings and all audit papers and information connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City of Bucyrus for official purposes.

E. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information 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 penalties, any employee of the City of Bucyrus who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City.

SECTION 7. INTEREST AND PENALTIES

A. All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by an employer, and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of twelve percent (12%) per annum
calculated at one percent (1%) per month or any part thereof.

B. A late filing fee of $5.00 per month, or any part thereof, (not to exceed $60.00) shall be assessed for each time period a taxpayer, an employer, a corporation, a firm, etc. remains delinquent so far as the required filing with the Bucyrus City Income Tax Department of a

tax return or report, etc. mandated by this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance, whether or not a tax is reported to be due and owing to the City of Bucyrus hereunder.

C. Any taxpayer or employer who is determined to be delinquent in the payment of any income tax or withheld monies determined to be due and owing hereunder to the City of Bucyrus, shall be assessed a penalty of Ten Per Cent (10%) of that tax or withheld tax obligation.

D. There shall be assessed against any taxpayer or employer whose payment of the income tax obligation hereunder or whose remittance of employees' monies withheld from employees' wages or salary is made to the City of Bucyrus by check, which is not honored by the bank involved and returned to the City, a returned check charge of $15.00 for each such occasion.

SECTION 8. VIOLATIONS - PENALTIES

A. The following shall be considered violations of this Ordinance:

1. Failing, neglecting or refusing to make any return or declaration required by this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance; or

2. Making any incomplete, false or fraudulent return; or

3. Failing, neglecting or refusing to pay the tax, penalties or interest, imposed by this Ordinance; or

4. Failing, neglecting, or refusing to withhold the tax from employees or to remit such withholding to the City Income Tax Administrator; or

5. Refusing to permit the City Income Tax Administrator or any duly authorized agent or employee to examine books, records and papers and Federal income tax returns relating to the income or net profits of a taxpayer; or

6. Failing to appear before the City Income Tax Administrator and to produce books, records, Federal income tax returns and papers relating to the income or net profits of a taxpayer under order or subpoena of the City Auditor; or

7. Refusing to disclose to the City Income Tax Administrator any information with respect to the income or net profits of a taxpayer; or

8. Failing to comply with the provisions of this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance, or any order or subpoena of the City Income Tax Administrator authorized hereby; or

9. Attempting to do anything to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

B. Any person who violates any of the provisions of Section 8A above shall be guilty of a misdemeanor and shall be fined not more than FIVE HUNDRED DOLLARS ($500.00) for each offense.

C. The failure of any employer or taxpayer 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 9. REGISTRATION OF ALL BUSINESSES OPERATING IN THE CITY OF BUCYRUS

A. Every business, whether sole proprietorships, partnerships, associations, corporations, or any other such entity, located within or without the City of Bucyrus, but doing business or any function of said business within the City of Bucyrus on or after January 1, 2001 shall register with the Bucyrus Income Tax Department within thirty (30) days of the beginning of that business operation, and comply with the Income Tax Ordinance and the Regulations in force at that time.

B. Any business subletting or subcontracting work within the City of Bucyrus shall furnish the Bucyrus City Income Tax Department with copies of Federal Form 1099 or a complete list of the names and addresses of the businesses receiving said work. Failure to comply will result in a penalty of Five Hundred Dollars ($500.00) plus other appropriate penalties and interest due.

SECTION 10. ALLOCATION OF FUNDS

A. A total of one per cent (1%) of the funds collected under the provisions of this Ordinance shall be deposited in a Special Income Tax Fund and said funds shall be disbursed for the period from January 1, 2001 and for an indeterminate period of time thereafter, in the following order, to-wit:

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

2. The balance of net available income tax receipts shall be used, as Council shall determine, to defray the operating expenses of the City, and set aside for capital improvements of the City, including, but not limited to, development and construction of sewers; to provide for improvement and maintenance of streets; to provide for construction and maintenance of public buildings; for equipment necessary for the Police, Fire, Street and Service Departments; and to provide for parks and playgrounds.

B. A total of one-half (½) of one per cent (1%) of the funds collected under the provisions of this Ordinance shall be deposited in the Special Street Construction, Maintenance and Repair Fund and shall be exclusively disbursed for the construction, general improvement and maintenance, repair and upkeep of public streets, thoroughfares, and alleys, curbs, gutters, catch basins and wheelchair ramps within the City of Bucyrus, as well as the purchase of such street equipment and machinery as may be deemed necessary to accomplish same.

SECTION 11. BOARD OF REVIEW

A. A Board of Review, consisting of three (3) electors of the City of Bucyrus, one to be appointed by the Mayor, one to be appointed by the City Treasurer, and the third to be selected by the two so appointed, is created by this Ordinance. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

B. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

C. All hearings of the Board of Review shall be conducted privately and the provisions of Section 6 of this Ordinance with reference to the confidential character of information required to be disclosed by this Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Whenever the City Income Tax Administrator issues a decision regarding an income tax obligation subject to appeal as provided in this section, the City Income Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and the manner in which the taxpayer may appeal the decision.

E. Any person who is dissatisfied by a decision of the City Income Tax Administrator and who has filed the required returns or other documents pertaining to the tax obligation at issue may appeal the decision to the Board of Review. The appeal shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the City Income Tax Administrator issues the said decision.

F. The Board shall schedule a hearing within forty-five (45) days after receiving the appeal, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other representative.

G. The Board may affirm, reverse, or modify the City Income Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

H. 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.

I. The Board of Review, as created, shall serve during the life of this Ordinance.

SECTION 12. APPLICABILITY

This Ordinance shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of the City Council of the City of Bucyrus to impose the tax herein provided for.

SECTION 13. SAVINGS 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 sentence, clause, 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 the City of Bucyrus that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14. EXEMPTIONS

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

1. The military pay or allowance of members of the armed forces of the United States and members of their reserve components, including the National Guard.

2. Poor relief, pensions, social security, unemployment compensation, and disability benefits received from private industry or local, state or Federal governments, or from charitable, religious or educational organizations.

3. Dues, contributions and similar payments received by charitable religious, educational or literary organizations or labor unions, lodges and similar

organizations.

4. Receipts from casual entertainment, amusements, sports events and health and welfare activities conducted by bona fide charitable, religious educational, literary, scientific, etc. purposes.

5. Any association, organization, corporation, club or trust, which is exempt from Federal taxes on income by reason of its charitable, religious, educational, literary, scientific, etc. purposes.

6. Gains from involuntary conversions, cancellations of indebtedness, interest on Federal obligations, income from intangibles by way of dividends, interest and the like subject to taxation under the Intangible Personal Property Tax Laws of the State of Ohio, or is specifically exempted from taxation under said laws, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.

8. If any item of income which is specifically exempt from taxation by this Ordinance is included in the net business profits of any business entity's Federal return, an adjustment will be allowed for the purpose of the Bucyrus Income Tax.

9. Minister's housing allowance.

10. Compensation paid to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually.

11. Compensation of an individual if all of the following apply:-
    a. The individual does not reside in the City.
    b. The compensation paid is for personal services performed by the individual in the City on twelve or fewer days, or any part of a day, in the calendar year.
    c. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City, and the individual pays tax on said compensation to the municipality, if any, in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.
    d. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.

SECTION 15. REFUNDS

Should it appear that any taxpayer has paid more than the amount of tax to which the City of Bucyrus is entitled under the provisions of this Ordinance, a refund of the amount so overpaid shall be made under the provisions of the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance.

All applications for refunds shall be made within three (3) years of the due date of a final return or within three (3) years of the actual filing of said return, whichever is later.

SECTION 16. EFFECTIVE PERIOD

This Ordinance shall continue insofar as the levy of one per cent (1%) of taxes is

concerned for an indeterminate period of time from and after January 1, 2001. So far as the levy of one-half (½) of one per cent (1 %) is concerned this Ordinance shall continue for a period of six (6) additional years from and after July 1, 2001. Said Ordinance, insofar as the collection of taxes levied in the aforesaid periods, and actions or proceedings for collecting any tax so levied, or enforcing any provisions of said Ordinance are concerned, shall continue effective until all of said taxes levied in the aforesaid periods 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."

SECTION 2. That this Ordinance is hereby enacted in place of Ordinance No. 103-2000 effecting a consolidation of subject matter contained in Ordinance No. 103-2000 and its amendments and bringing the Ordinance into compliance with changes made by the State Legislature, the same to read as follows (said changes set forth in bold italics):-

SECTION 1. DEFINITIONS.

A. ***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.***

1. ***"Association" means a partnership, limited partnership, limited liability company, S corporation, or any other unincorporated enterprise owned by one or more persons.***

2. ***"Board of Review" means the Board created by and constituted as provided for in section 11.***

3. ***"Business" means an enterprise, activity, profession or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, fiduciary, trust, corporation, association or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.***

4. ***"City" means the City of Bucyrus.***

5. ***"City Income Tax Administrator" means the person appointed to administer the City's Income Tax Ordinance and Rules and Regulations and to direct the operation of the City Income Tax Department or the person executing the duties of the City Income Tax Administrator.***

6. ***"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, foreign country or dependency, but not including S corporations.***

7. ***"Domicile" means a principal residence that a taxpayer intends to use for an indefinite period of time and to which whenever he is absent he intends to return. A taxpayer has only one domicile even though he may have more than one residence.***

8. ***"Employee" means one who works for wages, salary, commission or other type of compensation in the service of an employer.***

9. ***"Employer" means an individual, 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.

10. *"Fiscal year" means an accounting period of twelve (12) months or less ending on any day other than December 31.*

11. *"Internal Revenue Code" means the Internal Revenue Code of 1986, 100 Stat. 2085, 26 U.S.C. 1, as amended.*

12. *"Limited liability company" means a limited liability company formed under Chapter 1705 of the Ohio Revised Code or under laws of another state.*

13. *"Net profit" for a taxpayer other than an individual means adjusted federal taxable income as defined in article II-9 of the Rules and Regulations and "net profit" for a taxpayer who is an individual means the individual's profits required to be reported on schedule C, schedule E or schedule F.*

14. *"Non-resident" means an individual domiciled outside the City of Bucyrus.*

15. *"Non-resident unincorporated business entity" means an unincorporated business entity not having an office or place of business within the City of Bucyrus.*

16. *"Owner" means a partner of a partnership, a member of a limited liability company, a shareholder of an S corporation, or other person with an ownership interest in a pass-through entity.*

17. *"Other entity" means any person or unincorporated body not previously named or defined.*

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

19. *"Person" includes individuals, firms, companies, business trusts, estates, trusts, partnerships, limited liability companies, associations, corporations, governmental entities and any other entity.*

20. *"Place of business" means any bona fide 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.*

21. *"Qualified retirement plan" means a retirement plan satisfying the requirements under section 401 of the Internal Revenue Code as amended.*

22. *"Qualifying wages" means wages, as defined in section 3121(a) of the Internal Revenue Code, without regard to any wage limitations, adjusted as follows:*

    (a) *Deduct any amount included in wages if the amount constitutes compensation attributable to a plan or program described in section 125 of the Internal Revenue Code.*

(b) *Add any amount not included in wages solely because the employee was employed by the employer prior to April 1, 1986.*

(c) *Add any amount not included in wages because the amount constitutes ordinary income arising from the sale, exchange or other disposition of a stock option, the exercise of a stock option, or the sale, exchange or other disposition of stock purchased under a stock option.*

(d) *Add any amount not included in wages if the amount is for employee contributions and employee deferrals to a plan or program described in section 401(k) or 457 of the Internal Revenue Code.*

(e) *Add any amount that is supplemental unemployment compensation benefits described in section 3402(o)(2) of the Internal Revenue Code and not included in wages.*

23. *"Resident" means an individual domiciled in the City of Bucyrus.*

24. *"Resident unincorporated business entity" means an unincorporated business entity having an office or place of business within the City of Bucyrus.*

25. *"Rules and Regulations" means Resolution No.240-2003 enacted by the Council of the City of Bucyrus on December 30, 2003 and any amendments or supplements thereto.*

26. *"Schedule C" means Internal Revenue Service schedule C filed by a taxpayer pursuant to the Internal Revenue Code.*

27. *"Schedule E" means Internal Revenue Service schedule E filed by a taxpayer pursuant to the Internal Revenue Code.*

28. *"Schedule F" means Internal Revenue Service schedule F filed by a taxpayer pursuant to the Internal Revenue Code.*

29. *"S corporation" means a corporation that has made an election under subchapter S of Chapter 1 of Subtitle A of the Internal Revenue Code for its taxable year.*

30. *"Taxable income" means qualifying wages paid by an employer or employers, compensation for personal services, other income defined by statute as taxable, and/or adjusted federal taxable income from the operation of a business, profession, or other enterprise or activity adjusted in accordance with the provisions of the Rules and Regulations.*

31. *"Taxable year" means the corresponding tax reporting period as prescribed for the taxpayer under the Internal Revenue Code.*

32. *"Taxpayer" means a person subject to a tax on income levied by a municipal corporation. "Taxpayer" does not include any person that is a disregarded entity or a qualifying subchapter S subsidiary for federal income tax purposes but "taxpayer" includes any other person who owns the disregarded entity or qualifying subchapter S subsidiary.*

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

SECTION 2. IMPOSITION OF TAX

To provide funds for the purpose of general municipal operations, maintenance of equipment, new equipment extension, enlargement and improvement of municipal services and facilities and capital improvements of the City of Bucyrus, there be, and hereby is levied a tax for an additional period of six (6) years beyond July 1, 2001 at the rate of one and one-half per cent (1 ½%) upon the following:

A. On all qualifying wages, commissions, other compensation and other taxable income earned or received on and after January 1, 2004, by resident individuals of the City.

B. On all qualifying wages, commissions, other compensation and other taxable income earned or received on and after January 1, 2004, by non-resident individuals of the City, for work done or services performed or rendered in the City.

C. On the net profits attributable to the City earned on and after January 1, 2004, of all resident unincorporated businesses, pass-through entities, professions or other activities derived from work done or services rendered or performed and business or other activities conducted in the City.

D. On the portion of the distributive share of the net profits earned on or after January 1, 2004, of a resident owner of a resident unincorporated business entity or pass-through entity not attributable to the City and not levied against such unincorporated business entity or pass-through entity.

E. On the net profits attributive to the City earned on and after January 1, 2004, of all non-resident unincorporated businesses, pass-through entities, professions or other activities, derived from work done or services performed or rendered and business or other activities conducted in the City whether or not such unincorporated business entity has an office or place of business in the City.

F. On the portion of the distributive share of the net profits earned on and after January 1, 2004, of a resident owner of a non-resident unincorporated business entity or pass-through entity not attributable to Bucyrus and not levied against such unincorporated business entity or pass-through entity.

G. On the net profits attributable to the City earned on and after January 1, 2004, of all corporations that are not pass-through entities derived from work done or services performed or rendered and business or other activities conducted in the City whether or not such corporations have an office or place of business in the City.

H. The portion of the net profits attributable to the City of Bucyrus of a taxpayer conducting a business, profession or other activity both within and without the boundaries of the City of Bucyrus 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 City of Bucyrus pursuant to this Ordinance.

I. On all income received as gambling winnings as reported on IRS Form W-2G, Form 5754 and or any other form required by the Internal Revenue Service that reports winnings from gambling, prizes and lottery winnings.
Such income is taxable whether received as a lump sum distribution or in the form of annual payments.

SECTION 3. EFFECTIVE DATE

Said tax shall be levied, collected and paid with respect to ***qualifying wages***,

commissions, other compensation and other taxable income earned ***or received*** on and after January 1, ***2004***, and with respect to the net profit of businesses, professions and other activities earned on and after January 1, ***2004***. Provided, however, that where the fiscal year of the business, profession or other activity differs from the calendar year, the tax shall be applied to that part of the net profit for the fiscal year as shall be earned on and after January 1, ***2004***, to the close of the taxpayer's fiscal year; thereafter the taxpayer shall report on its fiscal basis. Prior to the ***2004*** tax year or January 1, ***2004***, taxable income shall be calculated based upon the former ordinance and resolution then in effect.

SECTION 4. RECIPROCITY PROVISION - CREDIT FOR TAX PAID TO OTHER MUNICIPALITIES

Every individual taxpayer who resides in the City of Bucyrus but who receives ***net profits, qualifying wages, commissions, other compensation or other taxable income*** for work done, or services performed or rendered outside of said City, if it be made to appear that he has paid a municipal income tax on such ***net profits, qualifying wages, commissions, other compensation or other taxable income*** to another municipality, shall be allowed a credit against the tax imposed by this Ordinance of the amount so paid by him or on his behalf to such other municipality. The credit shall not exceed the tax assessed by this Ordinance on such ***net profits, qualifying wages, commissions, other compensation or other taxable income*** earned in such other municipality or municipalities where such tax is paid. No credit shall be given for taxes paid in error to another municipality. If a taxpayer receives a refund from another municipality for income taxes paid in error to that municipality, the amount of tax due the City of Bucyrus must be paid to the City Income Tax Administrator within thirty (30) days of receiving said refund."

SECTION 5. ADMINISTRATION - DUTIES OF THE CITY TREASURER, CITY AUDITOR AND CITY INCOME TAX ADMINISTRATOR

A. It shall be the duty of the City Treasurer 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. All cashiers handling tax monies shall be subject directly to the City Auditor and shall give daily accountings to the City Treasurer.

B. A Department of Taxation is hereby created within the office of the City of Auditor of the City of Bucyrus. Such Department of Taxation shall have such deputies, clerks and other employees as may be from time to time determined by the Council of the City of Bucyrus, and shall receive such salary as may be determined by City Council. The City Auditor, save and except that in the case of the City Income Tax Administrator, shall be responsible for making of appointment of all Tax Department personnel. The City Auditor shall make a recommendation to City Council for the appointment by Council of the City Income Tax Department Administrator. The Department of Taxation shall be charged with the administration and operation of this Ordinance, under the direction of the City Income Tax Administrator. In the absence of the City Income Tax Administrator, the City Auditor shall assume the responsibilities of said City Income Tax Administrator as provided herein. The City Auditor shall also make a written report to Council annually of all monies collected hereunder during the preceding year.

C. It shall be the duty of the City Income Tax Administrator to enforce payment of all taxes owed to the City of Bucyrus, 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.

D. Said City Income Tax Administrator is hereby charged with the enforcement

of the provisions of this Ordinance and to enforce the rules and regulations of Council of the City of Bucyrus, Ohio, relating to any matter or thing pertaining to the collection of City income tax taxes and the administration and enforcement of the provisions of this Ordinance, including provisions for the examination and correction of returns and payments.

E. The City Income Tax Administrator shall prescribe the form and method of accounts and reports for said department, as well as the forms for taxpayer's returns and declarations, and shall be charged with the internal examination and audit all such accounts, and shall exhibit accurate records showing the amount received from each taxpayer, and the date of said receipt. The City Income Tax Administrator shall likewise purchase all equipment, supplies and material for the Department of Taxation subject to the approval of Council.

F. 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 City Income Tax Administrator may determine the amount of tax appearing to be due the City of Bucyrus 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.

G. The City Income Tax Administrator shall have the power to compromise, whether in full or in part, any interest or penalty, or both, imposed by this Ordinance. The City Income Tax Administrator may establish reasonable guidelines governing such abatement of penalties, interest and late filing fees.

SECTION 6. INVESTIGATIVE POWERS OF THE CITY INCOME TAX ADMINISTRATOR - PENALTY FOR DIVULGING CONFIDENTIAL INFORMATION

A. The City Income Tax Administrator or duly authorized agent or employee, is hereby authorized to examine the books, papers, records and Federal income tax returns of any employer, or any taxpayer or person subject to the tax, or believed to be subject to the provisions of this Ordinance and the Rules and Regulations adopted by the Council of the City of Bucyrus, for the purpose of verifying the accuracy of any return made, or, if no return was made, to ascertain the tax or withholdings due. Every such employer, supposed employer, taxpayer or supposed taxpayer, is hereby directed and required to furnish to the City Income Tax Administrator or duly authorized agent or employee, within thirty (30) days following a written request by the City Income Tax Administrator or duly appointed agent or employee, the means, facilities and opportunity for making such examination and investigations as are hereby authorized.

B. The City Income Tax Administrator or duly appointed agent or employee, is hereby authorized to examine any person, employer or employee under oath, concerning any income which was or should have been reported for taxation, or withheld, and for this purpose may compel the production of books, Federal income tax returns, papers and records and the attendance of persons before him, whether as parties or witnesses, whenever he believes such persons have knowledge of such income.

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 *to*, or presumed to be subject to the tax, *or* by any officer, agent or employee of a persons 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 any order or subpoena of the City Income Tax Administrator authorized hereby, shall be deemed a violation of this Ordinance, punishable as provided in Section 8 hereof.

D. Tax returns, investigations, hearings and all audit papers and information

connected therewith are confidential and shall be carefully preserved so that they shall not be available for inspection by anyone other than the proper agents of the City of Bucyrus for official purposes.

E. Any information gained as the result of the filing of any tax returns, investigations, hearings or verifications required or authorized by this Ordinance shall be confidential, except for official purposes and except in accordance with proper judicial order. Any person divulging such information 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 penalties, any employee of the City of Bucyrus who violates the provisions of this section relative to disclosure of confidential information shall be immediately dismissed from the service of the City.

SECTION 7. INTEREST AND PENALTIES

A. All taxes imposed by this Ordinance, including taxes withheld or required to be withheld from wages by an employer, and remaining unpaid after they have become due, shall bear interest on the amount of the unpaid tax at the rate of twelve percent (12%) per annum calculated at one percent (1%) per month or any part thereof.

B. A late filing fee of $5.00 per month, or any part thereof, (not to exceed $60.00) shall be assessed for each time period a taxpayer, an employer, a corporation, a firm, etc. remains delinquent so far as the required filing with the Bucyrus City Income Tax Department of a tax return or report, etc. mandated by this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance, whether or not a tax is reported to be due and owing to the City of Bucyrus hereunder.

C. Any taxpayer or employer who is determined to be delinquent in the payment of any income tax or withheld monies determined to be due and owing hereunder to the City of Bucyrus, shall be assessed a penalty of Ten Per Cent (10%) of that tax or withheld tax obligation.

D. There shall be assessed against any taxpayer or employer whose payment of the income tax obligation hereunder or whose remittance of employees' monies withheld from employees' wages or salary is made to the City of Bucyrus by check, which is not honored by the bank involved and returned to the City, a returned check charge of $15.00 for each such occasion.

SECTION 8. VIOLATIONS - PENALTIES

A. The following shall be considered violations of this Ordinance:

1. Failing, neglecting or refusing to make any return or declaration required by this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance; or

2. Making any incomplete, false or fraudulent return; or

3. Failing, neglecting or refusing to pay the tax, penalties or interest, imposed by this Ordinance; or

4. Failing, neglecting, or refusing to withhold the tax from employees or to remit such withholding to the City Income Tax Administrator; or

5. Refusing to permit the City Income Tax Administrator or any duly authorized agent or employee to examine books, records and papers

and Federal income tax returns relating to the income or net profits of a taxpayer; or

6. Failing to appear before the City Income Tax Administrator and to produce books, records, Federal income tax returns and papers relating to the income or net profits of a taxpayer under order or subpoena of the City Auditor; or

7. Refusing to disclose to the City Income Tax Administrator any information with respect to the income or net profits of a taxpayer; or

8. Failing to comply with the provisions of this Ordinance or the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance, or any order or subpoena of the City Income Tax Administrator authorized hereby; or

9. Attempting to do anything to avoid the payment of the whole or any part of the tax, penalties or interest imposed by this Ordinance.

B. Any person who violates any of the provisions of Section 8A above shall be guilty of a misdemeanor and shall be fined not more than FIVE HUNDRED DOLLARS ($500.00) for each offense.

C. The failure of any employer or taxpayer 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.

D. The term "person" as used in this section shall, in addition to the meaning prescribed in Section 1, include in the case of an association or corporation not having any partner, member or officer within the City, any employee or agent of such association or corporation who can be found within the corporate limits of the City.

E. Prosecutions for an offense made punishable under this section shall be commenced within three (3) years after commission of the offense, provided that in the case of fraud, failure to file a return, or omission of twenty-five percent (25%) or more of income required to be reported, prosecutions may be commenced within six (6) years after the commission of the offense.

SECTION 9. REGISTRATION OF ALL BUSINESSES OPERATING IN THE CITY OF BUCYRUS

A. Every business, whether sole proprietorships, partnerships, associations, corporations, or any other such entity, located within or without the City of Bucyrus, but doing business or any function of said business within the City of Bucyrus on or after January 1, ***2004*** shall register with the Bucyrus Income Tax Department within thirty (30) days of the beginning of that business operation, and comply with the Income Tax Ordinance and the Regulations in force at that time.

B. Any business subletting or subcontracting work within the City of Bucyrus shall furnish the Bucyrus City Income Tax Department with copies of Federal Form 1099 or a complete list of the names and addresses of the businesses receiving said work. Failure to comply will result in a penalty of Five Hundred Dollars ($500.00) plus other appropriate penalties and interest due.

SECTION 10. ALLOCATION OF FUNDS

A. A total of one per cent (1%) of the funds collected under the provisions of this Ordinance shall be deposited in a Special Income Tax Fund and said funds shall be

disbursed for the period from January 1, ***2004*** and for an indeterminate period of time thereafter, in the following order, to-wit:

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

2. The balance of net available income tax receipts shall be used, as Council shall determine, to defray the operating expenses of the City, and set aside for capital improvements of the City, including, but not limited to, development and construction of sewers; to provide for improvement and maintenance of streets; to provide for construction and maintenance of public buildings; for equipment necessary for the Police, Fire, Street and Service Departments; and to provide for parks and playgrounds.

B. A total of one-half (½) of one per cent (1%) of the funds collected under the provisions of this Ordinance shall be deposited in the Special Street Construction, Maintenance and Repair Fund and shall be exclusively disbursed for the construction, general improvement and maintenance, repair and upkeep of public streets, thoroughfares, and alleys, curbs, gutters, catch basins and wheelchair ramps within the City of Bucyrus, as well as the purchase of such street equipment and machinery as may be deemed necessary to accomplish same.

SECTION 11. BOARD OF REVIEW

A. A Board of Review, consisting of three (3) electors of the City of Bucyrus, one to be appointed by the Mayor, one to be appointed by the City Treasurer, and the third to be selected by the two so appointed, is created by this Ordinance. No member shall be appointed to the Board of Review who holds other public office or appointment. The members of the Board of Review shall serve without pay.

B. A majority of the members of the Board of Review shall constitute a quorum. The Board of Review shall adopt its own procedural rules and shall keep a record of its transactions.

C. All hearings of the Board of Review shall be conducted privately and the provisions of Section 6 of this Ordinance with reference to the confidential character of information required to be disclosed by this Ordinance shall apply to such matters as may be heard before the Board of Review on appeal.

D. Whenever the City Income Tax Administrator issues a decision regarding an income tax obligation subject to appeal as provided in this section, the City Income Tax Administrator shall notify the taxpayer at the same time of the taxpayer's right to appeal the decision and the manner in which the taxpayer may appeal the decision.

E. Any person who is dissatisfied by a decision of the City Income Tax Administrator and who has filed the required returns or other documents pertaining to the tax obligation at issue may appeal the decision to the Board of Review. The appeal shall be in writing, shall state why the decision should be deemed incorrect or unlawful, and shall be filed within thirty (30) days after the City Income Tax Administrator issues the said decision.

1. The imposition of penalties and/or interest as prescribed in this Ordinance is not a sole basis for an appeal.

F. The Board shall schedule a hearing within forty-five (45) days after receiving the appeal, unless the taxpayer waives a hearing. If the taxpayer does not waive the hearing, the taxpayer may appear before the Board and may be represented by an attorney at law, certified public accountant, or other

representative.

G. The Board may affirm, reverse, or modify the City Income Tax Administrator's decision or any part of that decision. The Board shall issue a decision on the appeal within ninety (90) days after the Board's final hearing on the appeal, and send notice of its decision by ordinary mail to the petitioner within fifteen (15) days after issuing the decision.

H. The taxpayer or the City Income Tax Administrator may appeal the Board's decision to either the local common pleas court or the Ohio Board of Tax Appeals as provided in section 5717.011 of the Ohio Revised Code.

I. The Board of Review, as created, shall serve during the life of this Ordinance.

SECTION 12. APPLICABILITY

This Ordinance shall not apply to any person, firm, corporation, or to any property as to whom or which it is beyond the power of the City Council of the City of Bucyrus to impose the tax herein provided for.

SECTION 13. SAVINGS 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 sentence, clause, 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 the City of Bucyrus that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 14. EXEMPTIONS

The provisions of this Ordinance shall not be construed as levying a tax upon the following:

1. The military pay or allowance of members of the armed forces of the United States and members of their reserve components, including the National Guard.

2. Proceeds from welfare benefits, unemployment insurance benefits, social security benefits, and qualified retirement plans as defined by the Internal Revenue Service.

3. Dues, contributions and similar payments received by charitable, religious, educational or literary organizations or labor unions, lodges and similar organizations.

4. Proceeds of insurance, annuities, workers' compensation insurance, permanent disability benefits, compensation for damages for personal injury and like reimbursements, not including damages for loss of profits and wages.

5. Alimony or spousal support.

6. Gains from involuntary conversions, cancellations of indebtedness, interest on Federal obligations, and income of a decedent's estate during the period of administration (except such income from the operation of a business).

7. Earnings and income of all persons under eighteen (18) years of age, whether residents or non-residents.

8. Compensation for damage to property by way of insurance or otherwise.

9. The rental value of a home furnished to a minister of the gospel as part of his compensation, or the rental allowance paid to a minister of the gospel as part of his compensation, to the extent used by him to rent or provide a home pursuant to section 107 of the Internal Revenue Code.

10. Compensation paid under Section 3501.28 or 3501.36 of the Ohio Revised Code to a person serving as a precinct election official, to the extent that such compensation does not exceed one thousand dollars annually. Such compensation in excess of one thousand dollars may be subject to taxation. The payer of such compensation is not required to withhold City tax from that compensation.

11. Compensation of an individual if all of the following apply:-

a. The individual does not reside in the City.

b. The compensation paid is for personal services performed by the individual in the City on twelve or fewer days, or any part of a day, in the calendar year.

c. In the case of an individual who is an employee, the principal place of business of the individual's employer is located outside the City, and the individual pays tax on said compensation to the municipality, if any, in which the employer's principal place of business is located and no portion of that tax is refunded to the individual.

d. The individual is not a professional entertainer or professional athlete, the promoter of a professional entertainment or sports event, or an employee of such a promoter.

12. Interest and dividends from intangible property.

13. Income of any charitable, educational, fraternal or other type of nonprofit association or organization enumerated in Ohio Revised Code 718.01 to the extent that such income is derived from tax-exempt real estate, tax-exempt tangible or intangible property, or tax-exempt activities.

14. Any association or organization falling in the category listed in the preceding paragraph receiving income from non-exempt real estate, tangible or intangible personal property, or business activities of a type ordinarily conducted for profit by taxpayers operating for profit shall not be excluded hereunder.

15. In the event any association or organization receives taxable income as provided in the proceeding paragraph from real or personal property ownership or income producing business located both within and without the corporate limits of the City, it shall calculate its income apportioned to the City under the method or methods provided in Article II-6 of the Rules and Regulations.

16. If exempt for federal income tax purposes, fellowship and scholarship grants are excluded from City income tax.

17. The income of a public utility, when that public utility is subject to the tax levied under section 5727.24 or 5727.30 of the Ohio Revised Code, except a municipal corporation may tax the following, subject to Chapter

5745. of the Ohio Revised Code:

a. The income of an electric company or combined company;
b. The income of a telephone company.

As used in (17) of this section, "combined company", "electric company", and "telephone company" have the same meanings as in section 5727.01 of the Ohio Revised Code.

18. An S corporation shareholder's distributive share of net profits of the S corporation, other than any part of the distributive share of net profits that represents wages as defined in section 3121(a) of the Internal Revenue Code or net earnings from self-employment as defined in section 1402(a) of the Internal Revenue Code, to the extent such distributive share would not be allocated or apportioned to this state under division (B)(1) and (2) of section 5733.05 of the Ohio Revised Code if the S corporation were a corporation subject to the taxes imposed under Chapter 5733 of the Ohio Revised Code.

19. Generally the above noted items in this section are the only forms of income not subject to the tax. Any other income, benefits, or other forms of compensation shall be taxable.

SECTION 15. REFUNDS

Should it appear that any taxpayer has paid more than the amount of tax to which the City of Bucyrus is entitled under the provisions of this Ordinance, a refund of the amount so overpaid shall be made under the provisions of the Rules and Regulations adopted by the Council of the City of Bucyrus pursuant to this Ordinance.

All applications for refunds shall be made within three (3) years of the due date of a final return or within three (3) years of the actual filing of said return, whichever is later.

SECTION 16. EFFECTIVE PERIOD

This Ordinance shall continue insofar as the levy of one per cent (1%) of taxes is concerned for an indeterminate period of time from and after January 1, *2004*. So far as the levy of one-half (½) of one per cent (1 %) is concerned this Ordinance shall continue for a period of six (6) additional years from and after July 1, 2001. Said Ordinance, insofar as the collection of taxes levied in the aforesaid periods, and actions or proceedings for collecting any tax so levied, or enforcing any provisions of said Ordinance are concerned, shall continue effective until all of said taxes levied in the aforesaid periods 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.

SECTION 3. That this Ordinance is hereby declared to be an emergency measure inasmuch as said changes which become effective 1 January, 2004 are needed for efficient operation of the city government and are deemed necessary for the preservation of the health, safety and welfare of the citizens of the City of Bucyrus, and it shall therefore be in full force and effect from and after its passage.

Passed this 30th day of December, 2003.

ATTEST: Regina H. Zornes
Regina H. Zornes,
Clerk of the Council

Linda L. Presler
Linda L. Presler,
President Pro-Tem of Council

Approved this 30th day of December, 2003.

Glenn T. Achtermann
Glenn T. Achtermann - MAYOR