CHAPTER 185
SHORT-TERM RENTAL TAX

185.01 INTENT OF TAX.

It is the intent of the Village to levy an excise tax of three percent (3%) on transactions by which lodging is or is to be furnished in a Short-Term Rental Dwelling to Transient Guests as referred to and authorized by RC 5739.02(C). Accordingly, this chapter shall be construed to effectuate that purpose and so as to be consistent with any requirement of law, compliance with which is a prerequisite to the validity of the tax intended to be levied hereby.

185.02 DEFINITIONS.

As used in this chapter:

(a) "Administrator" means the individual charged with direct responsibility for administration of a tax levied by the Village of Peninsula in accordance with this chapter.

(b) "Booking Agent" means any person or entity that facilitates reservations or collects payment for Short-Term Rental Dwelling accommodations on behalf of or for a Vendor. Merely publishing an advertisement for accommodations does not make the publisher a Booking Agent.

(c) "Short-Term Rental Dwelling" means every establishment kept, used, maintained, advertised, or held out to the public to be a place where lodging for less than thirty consecutive days is offered to guests in one (1) or more rooms, regardless of use of keyed entry, whether such rooms are in one (1) or several structures, and whether the rooms are located in different structures or on different parcels of land if the structures are not identified in advertisements of the accommodations as distinct establishments and regulated by chapter 741 of the Village's Codified Ordinances.

(d) "Transaction Price" means the total amount of consideration, including money or any other value, paid, or to be paid, or given by, or on behalf of, a Transient Guest to a Short-Term Rental Dwelling Vendor or Booking Agent in exchange for lodging. The Transaction Price is the amount advertised or published to the public inclusive of any fees built into the advertised or published price; however, service fees or booking fees, if separately stated, shall not be included in the Transaction Price.

(e) "Transient Guest" or "Transient Guests" means a person or persons occupying a room or rooms for lodging for less than thirty (30) consecutive days.

(f) "Vendor" means the person who is the owner or operator of the Short-Term Rental Dwelling and who furnishes the lodging.

185.03 PURPOSE, RATE, AND APPLICATION OF TAX.

(a) There is hereby levied an excise tax of three percent (3%) on transactions by which lodging at a Short-Term Rental Dwelling is, or is to be, furnished to Transient Guests.

(b) The excise tax levied under this chapter shall provide revenue for the purposes of general municipal operations, procurement of fixed assets or permanent improvements, payment of debt charges, the elimination of deficits in Village funds, and for all other lawful purposes. To carry out such purposes, the receipts of the tax levied under this chapter shall be deposited to the credit of the General Fund.

(c) The tax, which shall be known as the short-term rental tax, applies and is collectible at the time the lodging is furnished, regardless of the time when the price is paid. The tax shall not apply to transactions by which lodging is furnished to:

(1) the Federal government, the State, or any of its political subdivisions; or

(2) a person maintaining occupancy for a period of thirty (30) or more consecutive days; provided, however, that except in the case of employees of the same employer, no occupancy may be used in combination with the occupancy of another, regardless of the source of payment, to exempt a transaction under this division.

(d) For the purpose of the proper administration of this chapter and to prevent the evasion of the tax, it shall be presumed that all lodging furnished at Short-Term Rental Dwellings in the Village to Transient Guests is subject to the tax until the contrary is established.

185.04 TRANSIENT GUEST TO PAY THE TAX.

(a) The short-term rental tax shall be paid by the Transient Guest to the Vendor unless division (b) of this section applies. Each Vendor shall collect from the Transient Guest the full and exact amount of the tax payable on the taxable price for each taxable lodging. The tax required to be collected under this chapter shall be deemed to be held in trust by the Vendor until paid to the Administrator as provided in Section 185.07 of this chapter. If, for any reason, the tax due is not paid to the Vendor, the Administrator may require the Transient Guest to pay such tax directly to the Administrator.

(b) A Booking Agent collecting for a Vendor may collect and remit the short-term rental tax in place of the Vendor, and in that instance, the Vendor shall not be responsible for collecting the short-term rental tax on any transaction for which the Vendor has received confirmation that the Booking Agent has collected and remitted the tax. If the Booking Agent collects the short-term rental tax, the requirements imposed on the Vendor set forth in section 185.04(a) shall be applicable to the Booking Agent.

185.05 RECORDS INSPECTION AND PRESERVATION.

Each Vendor and Booking Agent shall maintain complete and accurate records of lodging furnished, together with a record of the tax collected thereon. Such records shall be open and accessible to inspection by the Administrator within the Village within fifteen (15) days upon notification in writing to the Vendor or Booking Agent. Such records shall be preserved for a period of three (3) years, unless the Administrator in writing consents to their destruction within that period, or by order requires that they be kept for a longer period of time.

185.06 TAX TO BE SEPARATELY STATED AND CHARGED.

(a) The Vendor, or Booking Agent collecting for a Vendor, shall state and charge the short-term rental tax to the Transient Guest separately from the charge for the lodging and on any record thereof, at the time when the occupancy is arranged or contracted and charged for, and upon every evidence of occupancy or any bill or statement or charge made for occupancy issued or delivered by the Vendor or Booking Agent.

(b) No Vendor or Booking Agent shall advertise or state in any manner, whether directly or indirectly, that the tax or any part thereof will be assumed or absorbed by the Vendor or Booking Agent, or that the tax will not be added to the amount charged for the lodging, or that, if added, any part will be refunded except in the manner provided in this chapter.

185.07 REGULATIONS FOR FILING RETURNS.

(a) Each Vendor, or Booking Agent collecting for a Vendor, shall on or before the last day of the month of the month following the end of each quarter make and file a return for the preceding quarter, on forms prescribed by the Administrator, showing the receipts from furnishing lodging, the amount of tax due from the Vendor, or Booking Agent collecting for a Vendor, to the Village for the period covered by the return, and such other information as the Administrator deems necessary for the proper administration of this chapter. All returns shall be signed by the Vendor, its authorized agent, or Booking Agent collecting for a Vendor. Returns shall be filed by delivering or mailing the same to the Administrator together with payment of the full amount of tax shown to be due thereon.

(b) The Administrator may authorize Vendors, or Booking Agents collecting for Vendors, whose tax liabilities are not such as to merit quarterly returns as determined by the Administrator upon the basis of administrative costs of the Village, to make and file returns at ~~less frequent~~ greater intervals. Such authorization shall be in writing and shall indicate the intervals at which returns are to be filed.

(c) Each Vendor, or Booking Agent collecting for a Vendor, shall file all claims for exemption from tax filed by the Transient Guests with the Vendor during the reporting period with the return.

(d) The Administrator shall treat all returns and payments submitted by Vendors, and Booking Agents collecting for Vendors, as confidential and shall not release them except upon

order of a court of competent jurisdiction or to an officer or agent of the United States, the State, the County, or the Village, for official use only, or except as required by law.

185.08 REFUNDS.

The Administrator shall refund or grant credits to Vendors, or Booking Agents collecting for Vendors, for the amount of tax paid illegally or erroneously or paid on any illegal or erroneous assessment where the Vendor or Booking Agent has not reimbursed itself from the Transient Guest. As between a Vendor and a Booking Agent, the request for refund shall be made by the party that filed the return containing the illegal or erroneous assessment. A Transient Guest may obtain a refund or credit for the amount of taxes paid illegally or erroneously, but only when the tax was paid by the Transient Guest directly to the Administrator. No refund shall be paid unless the claimant establishes a right thereto by written records showing entitlement thereto and makes a claim filed within three (3) years of the date of payment in the manner and on forms prescribed and furnished by the Administrator, and stating under penalty of perjury, the specific grounds upon which the claim is founded.

185.09 FAILURE TO COLLECT AND REPORT TAX; DETERMINATION BY ADMINISTRATOR.

(a) If any Vendor fails or refuses to collect the short-term rental tax or to file a return or remit the tax or any portion thereof, as required by this chapter, and the Vendor has not received confirmation that a Booking Agent has collected and remitted the tax, the Administrator shall proceed in such manner as he or she may deem best to obtain information on which to base an assessment of the tax due. When the Administrator has obtained such information as he or she is able, he or she shall proceed to determine and assess against such Vendor the tax and penalty provided for in this chapter.

(b) In case such determination is made, the Administrator shall serve notice upon the Vendor of the amount so assessed, either by personal service, by registered or certified mail, or by a delivery service authorized under Section 5703.056 of the Ohio Revised Code, to the address provided to the Village by the Vendor, or if no such address is provided, to the property tax mailing address for the property on file with the County Fiscal Officer. If delivery is not made due to an undeliverable address or refusal of service, the assessment shall be sent by ordinary mail and be considered served. Such Vendor may, within thirty (30) days after the serving or mailing of such notice, apply in writing to the Administrator for a hearing on the correctness of the amount assessed. If the Vendor does not apply within the time prescribed, the tax and penalty determined by the Administrator shall become final and conclusive and due and payable. If the Vendor makes timely application, the Administrator shall give the Vendor written notice not less than five (5) days in advance in the manner prescribed in this section, to show cause at a time and place fixed in the notice why the amount specified therein should not be fixed for such tax and penalty. At any such hearing, the Vendor may appear and offer evidence why such specified tax and penalty should not be so fixed.

(c) After such hearing, the Administrator shall determine the proper amount of tax due and shall thereafter give written notice to the Vendor, in the manner prescribed in this section,

of such determination and the amount of such tax and penalty. The amount determined to be due shall be payable within fifteen (15) days from the date of the Administrator's determination.

185.10 APPEALS.

Appeals from any ruling or determination of the Administrator with respect to the amount of such tax and penalty shall be made to the Village Board of Tax Review in conformance with Section 181.21 of the Village's Codified Ordinances.

185.11 ACTIONS TO COLLECT.

Any tax required to be paid under the provisions of this chapter shall be deemed a debt owed by the Transient Guest to the Village. Any such tax not collected by a Vendor, or a Booking Agent collecting for a Vendor, pursuant to the provisions of this chapter, or any tax paid by a Transient Guest to a Vendor, or a Booking Agent collecting for a Vendor, not paid to the Village pursuant to the provisions of this chapter, shall be deemed a debt owed by the Vendor or Booking Agent to the Village. Any person owing money to the Village under the provisions of this chapter shall be liable to an action brought in the name of the Village for the recovery of such an amount and/or be subject to the penalties set forth in sections 185.12, 185.13, and 185.99 of this chapter.

185.12 INTEREST ON UNPAID TAX.

The tax imposed and collected or required to be collected under the provisions of this chapter remaining unpaid to the Village after the tax becomes due shall bear interest at the rate of the federal short-term interest rate, rounded to the nearest whole number percent, plus five percent. The rate shall apply for the calendar year next following the July of the year in which the federal short-term interest rate is determined under Section 1274 of the Internal Revenue Code.

185.121 BOOKING AGENTS.

(a) Any Booking Agent that facilitates transactions for one (1) or more Short-Term Rental Dwellings in the Village and does not collect or remit the tax on behalf of all the Vendors of such Short-Term Rental Dwellings shall provide to the Village, quarterly within thirty (30) days of the end of each calendar quarter, a transaction report. The transaction report shall consist of all listings by the Vendors during the preceding calendar quarter, including, but not limited to, the dates of occupancy for each lodging and the amount paid for each completed transaction.

(b) Any Booking Agent that lists one (1) or more Short-Term Rental Dwellings in the Village shall:

(1) at the time any Vendor first obtains a short-term rental certificate, notify the Vendor of the Vendor's tax and obligations to the Village; and

(2) annually provide all Vendors of one (1) or more Short-Term Rental Dwellings with a reminder of their tax and license obligations to the Village.

185.13 PENALTIES ON UNPAID TAX.

In addition to interest as provided in Section 185.12 hereof, penalties based on the unpaid tax are hereby imposed as follows:

(a) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within ~~thirty (30) days after~~ the date required shall pay, in addition to the tax and interest, a penalty equal to ten percent (10%) of the amount of the tax;

(b) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within sixty (60) days after the date required shall pay, in addition to the tax and interest, a penalty equal to fifteen percent (15%) of the amount of the tax;

(c) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within ninety (90) days after the date required or upon a second delinquency within a 2 year period shall pay, in addition to the tax and interest, a penalty equal to twenty percent (20%) of the amount of the tax;

(d) Any Vendor, or Booking Agent collecting for a Vendor, who fails to remit any tax imposed by this chapter within one hundred twenty (120) days or more or upon a third or later delinquency within a 2 year period shall pay, in addition to the tax and interest, a penalty equal to twenty-five percent (25%) of the amount of the tax.

185.14 RULES AND REGULATIONS.

The Administrator shall have the power to adopt rules and regulations not inconsistent with the terms of this chapter for carrying out and enforcing the payment, collection, and remittance of the short-term rental tax. A copy of such rules and regulations shall be published in the Village Record at least once before they become effective. Copies shall be printed and made available in the office of the Administrator.

185.99 PENALTY.

(a) Any Vendor or Booking Agent who fails to file any return or report required under this chapter or violates any other provision of this chapter shall be guilty of a misdemeanor of the first degree and be subject to a maximum fine of one thousand dollars ($1,000.00) per occurrence or imprisonment of up to six months, or both. A separate offense shall be deemed to occur on the first day of each month that the offense continues.

(b) If not otherwise specified herein, no person or entity shall:

(1) Fail, neglect, or refuse to file any return or make any declaration required by this ordinance;

(2) File any incomplete or false return or provide any false information to the Administrator;

(3) Fail, neglect, or refuse to pay the tax, penalties, or interest imposed by this ordinance; or

(4) Refuse to produce to the Tax Administrator or permit the Tax Administrator or any duly authorized agent or employee to examine the books, records, or papers relating to short-term rentals of the Vendor or Booking Agent.