

VILLAGE OF PENINSULA, OHIO
ORDINANCE NO.: 6-2013
INTRODUCED BY: _____
DATE PASSED: 6-10-13

AN ORDINANCE AMENDING THE VILLAGE OF PENINSULA CODIFIED ORDINANCES, TITLE NINE – TAXATION, CHAPTER 181.03 IMPOSITION OF TAX, INCOME TAX; BY SUBMITTING TO THE ELECTORS AN INCREASE IN THE INCOME TAX FROM ONE PERCENT (1%) TO TWO PERCENT (2%) TO FUND THE GENERAL OPERATING BUDGET OF THE VILLAGE OF PENINSULA FOR THE PURPOSE OF GENERAL MUNICIPAL OPERATIONS.

WHEREAS, A continued decrease in state funding to the Village of Peninsula has necessitated an increase in the income tax for the general municipal operation of the Village; therefore, the Council of the Village of Peninsula deems it necessary and proper for the continued fiscal solvency and administration of the Village of Peninsula to levy a tax of an additional one percent (1%) upon qualifying income;

NOW THEREFORE, BE IT ORDAINED by the duly elected Council of the Village of Peninsula, Summit County, Ohio, as follows, pursuant to Ohio Revised Code §718.01(c), the Village of Peninsula will submit the following question to the qualified Electors of the Village of Peninsula, in the following form:

Section 1: “Shall the Ordinance providing for an additional 1 percent (1%) levy on income, resulting in a total income tax of 2 percent (2%) for financing the General Municipal Operations of the Village of Peninsula be passed?”

	For the Income Tax
	Against the Income Tax

Section 2: In the event of an affirmative vote the proceeds may only be used for the above specified purpose.

Section 3: The Fiscal Officer is hereby directed to give public notice of the time and place of the holding of the election, by posting in a conspicuous place, the Peninsula Village Hall or by publication, at least ten (10) days prior to the date of the election in a newspaper of general circulation in the Village of Peninsula.

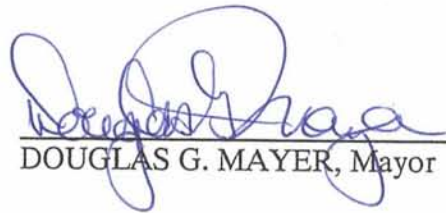
Section 4: The Fiscal Officer is hereby authorized and directed to immediately deliver to the Board of Elections a *Certified Copy* of this Ordinance Number Ord. _____, and the Resolution, Resolution Number Res. _____, specifying the date the election is to be held and directing the board of elections to conduct the election.

Section 5: That 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 in meetings open to the public, in compliance with all legal requirements including Section 121.22 of the Ohio Revised Code.

Section 6: This Ordinance amends the Village of Peninsula Codified Ordinance(s), Title Nine – Taxation, Chapter 181.03 Imposition of Tax, Income Tax, and amends only the percentage of tax to be levied on income as provided for in Title IX, Chapter 181, and hereby ratifies and confirms all other provisions of Chapter 181 entitled Income Tax.

Section 7: This Ordinance shall take effect on June 10, 2013.

Passed:


DOUGLAS G. MAYER, Mayor

Attest:


JOHN D. STEIGEL, Fiscal Officer

I, JOHN D. STEIGEL, Fiscal Officer of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Ordinance was duly passed by the Council of the Village of Peninsula, State of Ohio, on the 10 day of June, 2013.


JOHN D. STEIGEL, Fiscal Officer

POSTING CERTIFICATE

I, JOHN D. STEIGEL, Fiscal Officer of the Village of Peninsula, Ohio, do hereby certify that the foregoing Ordinance was duly passed by the Council of the Village of Peninsula, State of Ohio, on the 10 day of June, 2013; that there is no newspaper published in said municipality, and that publication of the foregoing Ordinance was made by posting true copies thereof at five of the most public places in said Village as heretofore determined by Council pursuant to Resolution No. 1884-1997, as follows:

1. Terry Lumber & Supply
2. Woodridge Intermediate School or Peninsula Quarry
3. Peninsula Library & Historical Society
4. Peninsula Village Hall Lobby
5. Peninsula Post Office

Each for a period of fifteen days commencing on the 17 day of June, 2013



JOHN D. STEIGEL, Fiscal Officer

Ordinance No. 311-1988

Passed March 13 1989

MUNICIPAL INCOME TAX ORDINANCE OF THE
VILLAGE OF PENINSULA

WHEREAS, the Clerk/Treasurer of the Village of Peninsula has reported to the Council of the Village that the Village lacks sufficient funds for the purposes of general municipal operation, maintenance of equipment and facilities and provision of current municipal services; and,

WHEREAS, Council deems said situation an emergency; and

WHEREAS, Council deems it in the best interest of the inhabitants of the Village of Peninsula, that a municipal income tax be levied as an emergency measure to provide for the municipal operation of the Village of Peninsula, now therefore,

BE IT ORDAINED by the Council of the Village of Peninsula that;

SECTION 1. LONG TITLE, PURPOSE AND ENACTMENT

An Ordinance be and hereby is enacted, Levying a tax to provide funds for the purposes of general municipal operation, maintenance of equipment, extension, enlargement and improvement of municipal services and facilities and capital improvements, on all salaries, wages, commissions and other compensation earned by residents of this municipality; on all salaries, wages, commissions and other compensation earned by non-residents of this municipality; for work done or services performed or rendered in this municipality on the net profits earned on all businesses, professions or other activities conducted by residents of this municipality; on the net profits earned on all businesses, professions or other activities conducted in this municipality by non-residents, and on the net profits earned by all corporations doing business in this municipality as the result of work done or services performed or rendered in this municipality; 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 this municipality; providing for the administration, collection and enforcement of said tax; declaring violation thereof to be a misdemeanor of the first degree and imposing penalties therefor; and declaring an emergency

This Ordinance is authorized by Chapter 718 of the Ohio Revised Code and shall be known by its short title "MUNICIPAL INCOME TAX ORDINANCE OF THE VILLAGE OF PENINSULA".

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SECTION 2. DEFINITIONS

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

ADMINISTRATOR--The individual designated by this Ordinance, whether appointed or elected, to administer and enforce the provisions of the ordinance.

ASSOCIATION--A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

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

BUSINESS--An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, corporation or any other entity, including but not limited to the renting or leasing of property, real, personal or mixed.

CORPORATION--A corporation or joint stock association organized under the laws of the United States, the State of Ohio, or any other state, territory, or foreign country or dependency.

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

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 or more persons on a salary, wage, commission, or other compensation basis.

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

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

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

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NON-RESIDENT--An individual domiciled outside this municipality.

NON-RESIDENT UNINCORPORATED BUSINESS ENTITY--An unincorporated business entity not having an office or place of business within this municipality.

PERSON--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, shall mean the partners or member thereof, and as applied to corporations, the officers thereof.

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

RESIDENT--An individual domiciled in this municipality.

RESIDENT UNINCORPORATED BUSINESS ENTITY--An unincorporated business entity having an office or place of business within this municipality.

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

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

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

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

SECTION 3. IMPOSITION OF TAX.

A. BASIS OF IMPOSITION

Subject to the provisions of Section 16 of this Ordinance, an annual tax for the purposes specified in Section 1 hereof shall be imposed on and after April 1, 1988 at the rate of 1% per annum upon the following:

1. On all salaries, wages, commissions and other compensation earned during the effective period of this Ordinance by residents of this municipality.

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2. On all salaries, wages, commissions and other compensation earned during the effective period of this Ordinance by non-residents for work done or services performed or rendered in this municipality.

3. (a) On the portion attributable to this municipality of the net profits earned during the effective period of this Ordinance 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 this municipality.

(b) On the portion of the distributive share of the net profits earned during the effective period of this Ordinance of a resident partner or owner of a resident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by this municipality.

4. (a) On the portion attributable to this municipality of the net profits earned during the effective period of this Ordinance of all non-resident unincorporated businesses, professions or other entities, derived from sales made, work done, or services performed or rendered and business or other activities conducted in this municipality, whether or not such unincorporated business entity has an office or place of business in this municipality.

(b) On the portion of the distributive share of the net profits earned during the effective period of this Ordinance of a resident partner or owner of a non-resident unincorporated business entity not attributable to this municipality and not levied against such unincorporated business entity by this municipality.

5. On the portion attributable to this municipality, of the net profits earned during the effective period of this Ordinance of all corporations derived from sales made, work done, services performed or rendered and business or other activities conducted in this municipality, whether or not such corporations have an office or place of business in this municipality.

B. ALLOCATION FORMULA

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

C. OPERATING LOSS-CARRY FORWARD.

1. The portion of a net operating loss sustained in any taxable year subsequent to (effective date of first ordinance permitting loss carry-forwards) allocable to this municipality may be applied against the portion of the profit of succeeding year(s) allocable to this municipality, until exhausted but in no event for more than five (5) taxable years.

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No portion of a net operating loss shall be carried back against net profits of any prior year.

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

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

D. CONSOLIDATED RETURNS.

1. Filing of consolidated returns may be permitted, required, or denied in accordance with Rules and Regulations prescribed by the Administrator.

2. In the case of a corporation that carries 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 this municipality constituting a portion only of its total business, the Administrator shall require such additional information as he may deem necessary to ascertain whether net profits are properly allocated to this municipality. If the Administrator finds net profits are not properly allocated to this municipality 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 this municipality.

E. EXCEPTIONS

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

(a). Military pay or allowances of members of the armed forces of the United States, or 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;

(b). Poor relief, unemployment insurance benefits, old age pensions or similar payments including disability benefits received from local, State or Federal governments or charitable, religious or educational organizations;

(c). Proceeds of insurance paid by reason of the death of the insured; pensions, disability benefits, annuities or gratuities not in the nature of compensation for services rendered from whatever source derived;

(d). Receipts from seasonal or casual entertainment, amusements, sports events and health and welfare activities when any such are conducted by bona fide charitable, religious or educational organizations and associations;

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(e). Alimony received;

(f). Personal earnings of any natural person under sixteen year of age: (16).

(g). Compensation for personal injuries or for damages to property by way of insurance or otherwise;

(h). Interest subject to the Ohio Intangible Tax or specifically exempted by the Ohio Intangible Tax Law, dividends and other revenue from intangible property.

(i). Gains from involuntary conversion, cancellation of indebtedness, interest on Federal obligations, items of income already taxed by the State which the Village is specifically prohibited from taxing, and income of a decedent's estate during the period of administration, except such income from the operation of a business;

(j). Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the United States Constitution or any act of Congress limiting the power of the states or their political subdivisions to impose net income taxes on income derived from interstate commerce;

(k). Salaries, wages, commissions and other compensation and net profits, the taxation of which is prohibited by the Constitution of the State or any act of the Ohio General Assembly limiting the power of the Village to impose net income tax.

SECTION 4. EFFECTIVE PERIOD

Said tax shall be levied, collected and paid with respect to the salaries, commissions and other compensation, and with respect to the net profits of businesses, professions or other activities earned on and after January 1, 1989.

SECTION 5. RETURNS; PAYMENT AND TIME LIMIT; EXTENSIONS; AMENDED RETURNS

A. PAYMENT AND TIME LIMIT

Each taxpayer, except as herein provided, shall, whether or not a tax be due thereon, make and file a return on or before April 30 of the year following the effective date of this ordinance, and on or before April 30 of each year thereafter. When the return is made for a fiscal year or other period different from the calendar year, the return shall be filed within four (4) months from the end of such fiscal year or period. The Administrator is hereby authorized to provide by regulation that the return of an employer or employers, showing the amount of tax deducted by said employer or employers from the salaries, wages, commissions or other compensation of an employee, and paid by him or them to the Administrator shall be accepted unless otherwise specified as the return required of any employee whose sole income, subject to tax under this ordinance, is such salary, wages, commissions, or other compensation.

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B. RETURNS

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

1. The aggregate amounts of salaries, wages, commissions and compensation earned and gross income from business, profession or other activity, less allowable ordinary, reasonable, and necessary expenses incurred in the acquisition of such gross income earned during the preceding year and subject to said tax;
2. The amount of the tax imposed by this Ordinance on such earnings and profits; and
3. Such other pertinent statements, information returns, or other information as the Administrator may require.

C. EXTENSIONS

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

D. PAYMENT

1. The Taxpayer making a return shall, at the time of the filing thereof, pay to the Administrator the amount of taxes shown as due thereon; been deducted at the source pursuant to the provisions of Section 6 of the taxpayer pursuant to the provisions of Section 7 of this ordinance, or where an income tax has been paid to another municipality, credit for the amount so paid in accordance with Section 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 said return.

2. A taxpayer who has overpaid the amount of tax to which this municipality is entitled under the provisions of this ordinance 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 that no additional taxes or refunds of less than one dollar (\$1.00) shall be collected or refunded.

E. AMENDED RETURNS

1. Where necessary an amended return must be filed in order to report additional income and pay any additional tax due, or claim a refund of tax overpaid, subject to the requirements and/or limitations contained in Section 11 and 14.

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Such amended returns shall be on a form obtainable on request from the Administrator. A taxpayer may not change the method of accounting or apportioning of net profits after the due date for filing the original return.

2. Within three (3) months from the final determination of any federal tax liability affecting the taxpayer's tax liability to this municipality, such taxpayer shall make and file an amended return showing income subject to the income tax of this municipality 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.

SECTION 6. WITHHOLDING TAX; EMPLOYER DEEMED TRUSTEE

A. In accordance with Rules and Regulations prescribed by the Administrator, each employer within or doing business within this municipality shall deduct at the time of the payment of such salary, wage, commission or other compensation, the tax of one (1%) percent of the gross salaries, wages, commissions or other compensation due by the said employer to said employee and shall, on or before the last day of the month following the close of each calendar quarter make a return and pay to the Administrator the amount of taxes so deducted. Such employer who deducts the tax in an amount of \$100.00 or more in the first or second month of the calendar quarter shall on or before the 20th day of the following month file a return and pay to the Administrator the amount of taxes so deducted. Said returns shall be on a form or forms prescribed by or acceptable to the Administrator and shall be subject to the Rules and Regulations prescribed therefor by the Administrator. Such employer shall be liable for the payment of the tax required to be deducted and withheld, whether or not such taxes have in fact been withheld.

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

C. On or before January 31 of each year beginning with the year 1989 each employer shall file a withholding return setting forth the names and addresses of all employees from whose compensation the tax was withheld during the preceding calendar year and the amount of tax withheld from his employees and such other information as may be required by the Administrator. All payments not subject to withholding shall be reported on a form required by the Administrator.

D. No person shall be required to withhold the tax on wages or other compensation paid domestic servants employed by him exclusively in or about such person's residence, even though such residence is in the municipality, but such employee shall be subject to all of the requirements of this Ordinance.

E. The tax Administrator for good cause may require immediate returns and payments to be submitted to his office.

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SECTION 7. DECLARATION OF INCOME; PAYMENT DATES

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

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

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

C. 1. Such declaration shall be filed upon a form furnished by, or obtainable from, the Administrator, provided, however, credit shall be taken for this municipality's income tax to be withheld from any portion of such income. In accordance with the provisions of Section 14 hereof, credit may be taken for tax to be paid to or to be withheld and remitted to another taxing municipality.

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

D. Such declaration or estimated tax to be paid this municipality shall be accompanied by a payment of at least one-fourth (1/4) of the estimated annual tax and at least a similar amount shall be paid on or before the last day of the sixth, ninth and thirteenth months after the beginning of the taxable year. Provided, however, that in case an amendment 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 this municipality shall be paid therewith in accordance with the provisions of Section 5 hereof.

SECTION 8. DUTIES OF THE ADMINISTRATOR

A. 1. It shall be the duty of the Tax Administrator to receive the tax imposed by this Ordinances 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 Administrator to enforce payment of all taxes owing this municipality, to keep accurate records for a minimum of five (5) years showing the

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amount due from each taxpayer required to file a declaration and/or to make any return, including taxes withheld, and to show the dates and amounts of payments thereof.

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

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

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

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

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

E. The Mayor of the Village of Peninsula or his duly appointed delegate agent shall be the Tax Administrator.

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

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

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B. The Administrator is hereby authorized to order any person presumed to have knowledge of the facts to appear before him and may examine such person, under oath, concerning any income which was or should have been reported 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, paper, 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 any officer, agent or employee of a person subject to the tax or required to withhold tax or the failure of any person to comply with the provisions of this Section or with an order or subpoena of the Administrator authorized hereby shall be deemed a violation of this ordinance, punishable as provided in Section 12 hereof.

D. Any information gained as a result of any returns, investigations verifications or hearings before the Administrator, required by the ordinance or authorized by these Rules and Regulations shall be confidential and no disclosure thereof shall be made except for official purposes or as ordered by a court of competent jurisdiction. Any person divulging such information shall be guilty of a misdemeanor of the first degree punishable by a maximum fine of One Thousand Dollars (\$1,000.00) or imprisonment for not more than six (6) months, or both. Each disclosure shall constitute a separate offense.

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

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

SECTION 10. INTEREST AND PENALTIES.

A. All taxes imposed and all monies withheld or required to be withheld by employers under the provisions of this ordinance and remaining unpaid after they become due shall bear interest at the rate of one and one-half percent (1 1/2%) per month or fraction thereof.

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

1. For failure to pay tax due - other than taxes withheld; one and one-half percent (1 1/2%) per month or fraction thereof.

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2. For failure to remit taxes withheld from employees; ten percent (10%) per month or fraction thereof.

C. EXCEPTIONS

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

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

SECTION 11. COLLECTION OF UNPAID TAXES AND REFUNDS OF OVERPAYMENTS

A. All taxes imposed by this Ordinance shall be collectible, together with any interest and penalties thereon, by a civil action at law. All additional assessments shall be made and all civil actions to recover municipal income taxes and penalties and interest thereon shall be brought within three (3) years after the tax was due or the return was filed, whichever is later.

B. Taxes erroneously paid shall not be refunded unless a claim for a refund is made. Claims for refund of municipal income taxes must be brought within the time limitation provided in Division A of this section.

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

SECTION 12. VIOLATIONS AND PENALTIES; TIME FOR PROSECUTION.

A. Any person who shall do any of the following shall be guilty of a misdemeanor of the first degree and shall be fined not more than One Thousand Dollars (\$1,000.00) or imprisoned not more than six (6) months, or both, for each offense:

1. Fail, neglect or refuse to make any return or declaration required by this Ordinance; or
2. Make any incomplete, false or fraudulent return; or
3. Willfully fail, neglect or refuse to pay the tax, penalties, or interest imposed by this ordinance; or
4. Willfully fail, neglect or refuse to withhold the tax from his employees or remit such withholding to the Administrator; or
5. Refuse to permit the Administrator or any duly authorized agent or employees to examine his books, records, papers or Federal income tax returns relating to the income or net profits of a taxpayer; or

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6. Fail to appear before the Administrator and to produce his books records, papers or Federal income tax returns relating to the income or net profits of a taxpayer upon order or subpoena of the Administrator; or

7. Refuse to disclose to the Administrator any information with respect to the income or net profits of a taxpayer; or

8. Fail to comply with the provisions of this Ordinance or any order or subpoena of the Administrator authorized hereby; or

9. Give to an employer false information as to his true name, correct social security number and residence address, or fail to promptly notify an employer 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 this municipality's income tax withheld, or to knowingly give the Administrator false information; or

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

B. Prosecutions for an offense made punishable under this Section or any other provision of this Ordinance shall be commenced within three (3) years after the commission of the offense, provided that in the case of fraud, failure to file a return, or the 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.

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

SECTION 13. BOARD OF REVIEW.

A. A Board of Review consisting of a chairman and two other individuals to be appointed by the Mayor of the Village and confirmed by the concurrence of two-thirds of the members elected to Council is hereby created. The first appointments shall be for one year, two years and three years, and each appointment made after the expiration of such terms shall be for three years. A majority of the members of the Board shall constitute a quorum. The Board shall adopt its own procedural rules and shall keep a record of its transactions. Any hearing by the Board may be conducted privately and the provisions of Section 9 hereof with reference to the confidential character of information required to be disclosed by this Ordinance shall apply to such matters as may be heard before the Board on appeal.

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

C. Any person dissatisfied with any ruling or decision of the Administrator which is made under the authority conferred by this Ordinance may appeal therefrom to the Board of Review within thirty (30) days from the announcement of such ruling or decision by the Administrator, and the Board shall, on hearing, have jurisdiction to affirm, reverse or modify any such ruling or decision, or any part thereof.

SECTION 14. CREDIT FOR TAX PAID TO ANOTHER MUNICIPALITY (1).

A. When a resident of Peninsula is subject to a municipal income tax in another municipality on the same income taxable under this chapter and the rate of Peninsula's municipal income tax is equal to or less than one percent (1%) such Peninsula resident's may claim a credit of the amount of income tax paid to the other municipality, but not in excess of fifty percent (50%) of the tax assessed by this chapter. When a resident of Peninsula is subject to a municipal income tax in another municipality on the taxable income under this chapter and the rate of Peninsula's municipal income tax is more than one percent (1%), such Peninsula resident may claim a credit of the amount of income tax paid to the other municipality, but not in excess of the tax assessed by this chapter.

B. In the event a Peninsula resident is entitled to credit for taxes paid another municipality, such Peninsula resident is required to file a return on form in such manner as the Administrator designated by the Village may prescribe.

C. Assignment of any claim for refund to which a Peninsula resident may be entitled from another municipality shall be tentatively accepted as payment of that portion of Peninsula income tax represented by such assignment. However, if satisfactory evidence is offered that the taxpayer is entitled to the claim covered by the assignment, such taxpayer shall not be deprived of credit therefore because of fault or neglect on the part of either municipality.

D. In the event such Peninsula resident fails, neglects or refuses to file such return or form as is prescribed by the Administrator, he shall not be entitled to such credit and shall be considered in violation of this chapter for failure to file a return and make payment of taxes due hereunder.

E. Any claim for credit for income taxes paid another municipality on the same income taxable hereunder or claim of or assignment of any refund due to the credit provided for

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herein, must be filed within three years from the due date of the return. Failure to file such claim or refund or credit within the time prescribed herein shall render such credit, claim for refund, or assignment null and void.

SECTION 15. SAVING CLAUSE

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

SECTION 16. COLLECTION OF TAX AFTER TERMINATION OF ORDINANCE

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

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

SECTION 17. AUTHORITY TO CONTRACT FOR CENTRAL COLLECTION OF TAX.

That the Mayor of the Village of Peninsula is hereby authorized and directed to enter into an agreement with the City of Cleveland for Central Collection of the Municipal Income Tax for the Village of Peninsula, Ohio.

SECTION 18. EMERGENCY CLAUSE.

This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety of the inhabitants of the Village of Peninsula to wit: to immediately provide funds for the ongoing maintenance of general municipal operations and services and it shall go into effect forthwith.

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Passed the _____ day of _____, 1988.

JAY RUOFF, MAYOR

ATTEST:

POLLY RUTLEDGE, CLERK

APPROVED:

LELAND D. COLE, SOLICITOR

I, Polly Rutledge, Clerk of the Village of Peninsula, Summit County, Ohio, do hereby certify that the foregoing Ordinance No. _____-1988 was duly and regularly passed by the Council of the Village of Peninsula, Summit County, Ohio, at a regular meeting of Council on ____ day of _____, 1988.

Polly Rutledge, Clerk

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