

ORDINANCE NO. 98-23

AN ORDINANCE PROVIDING FOR THE LEVY OF A THIRD CENT TOURIST DEVELOPMENT TAX PURSUANT TO SECTION 125.0104, FLORIDA STATUTES; PROVIDING THAT THE FUNDS RAISED BY SAID TAX SHALL BE USED FOR THE PURPOSE OF BEACH RENOURISHMENT AND MAINTENANCE; PROVIDING FOR VIOLATIONS AND PENALTIES; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EXTRAORDINARY VOTE; PROVIDING METHOD OF REPEAL; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.0104, Florida Statutes, provides for the levy of a local option tourist development tax by any county; and

WHEREAS, under the provisions of Ordinance No. 86-18, this Board established the Walton County Tourist Development Council amended same in Ordinance No. 91-9; and

WHEREAS, said Tourist Development Council presented to this Board its plan for the use of a third cent of tourist development tax for beach renourishment and maintenance;

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF WALTON COUNTY, FLORIDA:

Section 1: (a) There is hereby levied and imposed an additional tourist development tax in the hereinafter described subcounty special district of Florida, at the rate of one (1%) percent of each whole and major fraction of each dollar of the total rental charged every person who rents, leases or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, tourist or trailer camp, or condominium for a term of six (6) months or less, for the purpose of beach renourishment and maintenance in the special district. When receipt of consideration is by way of property other than money, the tax shall be levied and imposed on the fair market value of such nonmonetary considerations.

(b) The additional tourist development tax shall be in addition to any other tax imposed pursuant to Chapters 125 and 212, Florida Statutes, and in addition to all other taxes, fees, and the considerations for the rental or lease.

(c) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.

(d) On a monthly basis, the person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Clerk of the Circuit Court or his appointed representative, acting in his capacity to the Board of County Commissioners at the time and in the manner as described for persons who collect tax under Section 212.03, Florida Statutes. The same duties and privilege imposed by Section 212.12, Florida Statutes, upon dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of books, records, and accounts, and compliance with the rules of the Department of Revenue in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provisions of this act; provided, however the said Walton County Board of Commissioners may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter does not exceed \$25.00.

(e) The Clerk of the Circuit Court shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each dealer in which the tax authorized by this act is applicable. The public disclosure of these records shall be governed by the provisions of Section 213.053, Florida Statutes.

(f) The Clerk of the Circuit Court, under the applicable rules of the Board of County Commissioners, is authorized to employ persons and incur other expenses for administration of this ordinance, such expenses not to exceed three percent (3%) of collections.

(g) Collections received by the Clerk of the Circuit Court from the tax for beach renourishment and maintenance, less the permitted costs of administration of this ordinance, shall be paid to Walton County for use by the County in accordance with the provisions of this ordinance and shall be placed in the County Tourist Development Council Trust Fund, to be accounted for separately from other tourist development tax collections.

(h) The Clerk of the Circuit Court may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purpose of this ordinance.

(i) The Clerk of the Circuit Court shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:

(1) For the purpose of enforcing the collection for the tax levied by this chapter, Clerk of the Circuit Court is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all dealers, or other persons charged with the duty to report or pay a tax under this ordinance, in order to determine whether they are collecting the tax or otherwise complying with this ordinance. In the event said dealer refuses to permit such examination of its books, records or other documents by the department as aforesaid, it is guilty of a misdemeanor of the second degree, punishable as provided in Section 775.083, Florida Statutes. The Clerk of the Circuit Court shall have the right to proceed in the Circuit Court to seek mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section to require an examination of the books and records of such dealer.

(2) Each dealer, as defined in this ordinance, shall secure, maintain, and keep for a period of 3 years a complete record of rooms or other lodging, leased or rented by said dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the Clerk of the Circuit Court for the reasonable administration of this ordinance, and such records shall be kept in accordance with generally accepted accounting principles; and all such records which are located or maintained in this state shall be open for inspection by the Clerk of the Circuit Court at all reasonable hours at such dealer's place of business located in the county. Any dealer who maintains such books and records at a point outside this county must make such books and records available for inspections by the Clerk of the Circuit Court or his representative in Walton County, Florida. Any dealer subject to the provisions of this ordinance, who violates these provisions is guilty of a misdemeanor of the second degree.

(3) (a) The Clerk of the Circuit Court shall send written notification, at least 30 days prior to the date an auditor is scheduled to begin an audit. The Clerk of the Circuit Court is not required to give 30 days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

(b) Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.
2. A reminder that all of the records, receipts, invoices, and relative documentation of the taxpayer must be made available to the auditor.
3. Any other requests or suggestions the Clerk may deem necessary.

(c) Only records, receipts, invoices, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.

(4) All taxes collected under this ordinance shall be remitted to the County Tourist Development Council Trust Fund. In addition to criminal sanctions, the Clerk of the Circuit Court is empowered, and it shall be its duty, when any tax becomes delinquent or is otherwise in jeopardy under this ordinance, to issue a warrant for the fully amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the Sheriffs of the state, and shall record the warrant in the public records of the county, and thereupon the amount of the warrant shall become a lien of any real or personal property of the taxpayer in the same manner as a recorded judgment. The Clerk of the Circuit Court may issue a tax execution to enforce the collection of taxes imposed by this ordinance and deliver it to the Sheriff. The Sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The Clerk of the Circuit Court may also have the delinquent dealer by a third party in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the clerk shall satisfy the lien of record within 30 days.

Section 2: Tax revenues may be used only in accordance with the provision of Section 125.0104, Florida Statutes.

Section 3: The area to be included within the subcounty special district shall be all of Walton County lying south of the intracoastal waterway.

Section 4: Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083, or Section 775.084, Florida Statutes.

Section 5: No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, or that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration, or when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083, or Section 775.084, Florida Statutes.

Section 6: The tax hereby levied shall constitute a lien on the property of the lessee, customer, or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in Section 713.67, 713.68, and 713.69, Florida Statutes.

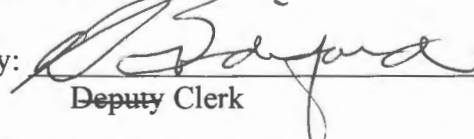
Section 7: This ordinance shall become effective on the first day of the second month following its being approved by extraordinary vote of the Board of County Commissioners of Walton County, Florida and filed with the Office of the Secretary of State in Tallahassee within 10 days after approval of the ordinance. A certified copy shall be furnished to the State of Florida Department of Revenue within 10 days after approval of the ordinance.

PASSED AND ADOPTED by an extraordinary vote of the Board this the 15th day of December, 1998.

WALTON COUNTY, a political subdivision of the State of Florida

By:  _____
Joel Paul, Jr. Chairman

ATTEST:
DAN BODIFORD, CLERK OF COURT

By:  _____
Deputy Clerk

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