

**ORDINANCE
2009-11**

AN ORDINANCE OF WALTON COUNTY, FLORIDA, IMPOSING AND LEVYING AN ADDITIONAL HALF PERCENT (0.5%) TOURIST DEVELOPMENT TAX (1/2 Cent Tax) IN THE EXISTING SOUTH WALTON SUB-COUNTY SPECIAL TAX DISTRICT IN WALTON COUNTY FLORIDA, PROVIDING FOR THE COLLECTION AND DESIGNATION OF THE ADDITIONAL TAX; SPECIFYING THE USE OF THE PROCEEDS OF THE ADDITIONAL TAX; REPEALING ALL ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF WALTON COUNTY; PROVIDING THAT THIS ORDINANCE SHALL TAKE EFFECT IMMEDIATELY UPON ADOPTION AND THAT THE EFFECTIVE DATE OF THE LEVY AND IMPOSITION MADE HEREBY, AND THE COMMENCEMENT OF COLLECTION OF THE ADDITIONAL TAX HEREUNDER, SHALL BE OCTOBER 1, 2009.

WHEREAS, Section 125.0104, Florida Statutes (2008), provides for the levy of up to a six percent (6%) Tourist Development Tax by counties meeting the statutory requirements for such levies; and

WHEREAS, a two percent (2%) Tourist Development Tax was imposed within the south Walton County sub-county special tax district by Walton County Ordinance 86-18 approved in a special referendum held September 30, 1986, for the purpose of promoting and advertising tourism and maintaining the Beaches of Walton County; and

WHEREAS, upon the recommendation of the Walton County Tourist Development Council (the "TDC"), an additional one percent (1 %) Tourist Development Tax was imposed within the South Walton sub-county special tax district by Ordinance 98-23, with collection commencing February 1, 1999, for the exclusive purpose of renourishment, restoration and maintenance of the Beaches in Walton County; and

WHEREAS, upon the recommendation of the TDC, an additional one percent (1%) Tourist Development Tax was imposed within the South Walton sub-county special tax district by Walton County Ordinance 2004-05, with collection commencing May 1, 2004, for the purpose of promoting and advertising tourism for the Beaches of Walton County, and for the addition of new products enhancing visitors' experiences at the Beach; and

WHEREAS, the Walton County Board of County Commissioners has amended said Ordinances in Ordinances 91-5, 91-9, 91-12, 94-14, 97-38, 00-19, and 02-01 to address collection issues and to adopt prior tourist development plans; and

WHEREAS, Section 125.0104(3)(n), Florida Statutes (2008), authorizes the imposition of an additional half percent (0.5%) Tourist Development Tax above the current four percent (4%) by majority vote plus one of the Board of County Commissioners to be used for the promotion of tourism in Walton County and in particular within the sub-county special tax district; and

WHEREAS, on March 11, 2009, the TDC, determined that the half percent (0.5%) Tourist Development Tax (1/2 cent tax) was necessary to give Walton County sufficient revenue to counteract the declines in tourism demand for the Beaches of South Walton; and

WHEREAS, the TDC recommends that a low cost air service into either Bay County or Okaloosa County will increase the volume and purchasing power of vacation visitors to Walton County, and will support increases in the number of industrial, commercial, and professional jobs; and

WHEREAS, the TDC recommends that supporting a low cost air service through promotion and advertisement of Walton County as a premier destination in Northwest Florida's Gulf Coast, such air service in new developing markets is in fact an overriding necessity and the highest and best use of the proceeds to be derived from the levy of the 1/2 cent tax; and

WHEREAS, the Walton County TDC recommends that the 1/2 cent tax needs to be adopted as soon as possible in order to build a fund that will be readily available to persuade a low cost air carrier to enter the Northwest Florida Gulf Coast region by this time next year thereby promoting tourism; and

WHEREAS, on March 11, 2009, the TDC adopted a Resolution recommending to the Walton County Board of County Commissioners that the Tourist Development Tax should be increased by an additional half percent (0.5%) per dollar, and

WHEREAS, on May 11, 2009, the TDC recommended that the Board of County Commissioners levy the additional 1/2 cent tax of the Tourist Development Tax, increasing the total tax to four and half percent (4.5%) for a period of five (5) years for the express and limited purpose of attracting a low cost air carrier to enter the Northwest Florida Gulf Coast region; and

WHEREAS, upon the recommendation of the TDC, on May 11, 2009, an additional half percent (0.5%) Tourist Development Tax was approved by Walton County Board of County Commissioners' by adopting Resolution 2009-54 for collection within the South Walton sub-county special tax district with collection commencing October 1, 2009, to be used for the promotion of tourism in Walton County and in particular within the sub-county special tax district; and

WHEREAS, the Board of County Commissioners agrees with the TDC, and finds and determines that such support of attracting a low cost air service into the Northwest Florida Gulf Coast region, is in fact an overriding necessity and the highest and best use of the proceeds to be derived from the burden of the 1/2 cent tax over the next five (5) years, and commits the 1/2 cent tax to that purpose; and

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Walton County, Florida:

Section 1. Levy And Imposition of Additional Half Percent (0.5%) Tourist Development Tax for Five (5) Years (The ½ Cent Tax).

(a) Pursuant to Section 125.0104(3)(n), Florida Statutes (2008), there is hereby levied, imposed and set for a period of five(5) consecutive years commencing October 1, 2009, an additional Tourist Development Tax of a half percent (0.5%)(The 1/2 Cent Tax) of each dollar and major fraction of each dollar of the total consideration charged every person for the lease or rental of living quarters or accommodations as authorized by Section 125.0104 Florida Statutes (2008), which includes lease or rental 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. When receipt of consideration is by way of property other than money, the tax is to be levied and imposed on the fair market value of such non-monetary consideration. Accordingly, the Tourist Development Tax rate established by Section 1(A) of Ordinance 86-18, as amended by Section 1 of Ordinance 98-23 and Section 1 of Ordinance 2004-05 is hereby increased from four percent (4%) to four and a half percent (4.5%).

(b) The 1/2 Cent 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 in accordance with the procedures established by Sections 19-26 and 19-29 of the Code of Walton County, Florida.

(c) This 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.

Section 2. Collection of The ½ Cent Tax.

(a) **Procedure.** The V2 Cent Tax shall be collected by the Clerk of the Circuit Court in accordance with the procedures and authority established in Sections 19-26 and 19-29 of the Code of Walton County, Florida, without priority or distinction but on a *pari passu* basis with the other four percent (4%) Tourist Development Tax collected. One-ninth (1/9) of the total Tax collected by the Clerk of the Circuit Court pursuant to Ordinance 86-18, as amended by Ordinances 98-23 and 2004-05, and this ordinance, is hereby designated as the proceeds of The 1/2 Cent Tax imposed by this Ordinance.

(b) **Applicability.** The 1/2 Cent Tax shall be collected within the sub-county special district defined as all of Walton County lying south of the intercoastal waterway.

(c) **Effective Date of Collection.** The Clerk of the Circuit Court shall commence collecting The 1/2 Cent Tax enacted by this Ordinance on October 1, 2009, and shall cease collecting the same on September 30, 2014.

Section 3. Use of Proceeds of The 1/2 Cent Tax.

(a) The proceeds of The 1/2 Cent Tax imposed by this Ordinance shall be specifically earmarked and used exclusively to establish a fund for the attraction of a low cost air carrier into the Northwest Florida Gulf Coast region and for any necessary marketing specifically related to that effort.

(b) In any event, the proceeds of The 1/2 Cent Tax imposed by this Ordinance shall be used only to promote and/or advertise tourism in the State of Florida and/or nationally and/or internationally for the benefit of Walton County, Florida, and in particular the special sub-county tax district; however, if tax revenues are expended for an activity, service, venue or event, that activity, service, venue, or event shall have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue or event to tourists in accordance with Section 125.0104(3)(n)2, Florida Statutes.

Section 4. Severability.

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. Repeal.

All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Section 6. Force and Effect.

To the extent that any ordinance affecting the Walton County Tourist Development Tax is not in conflict herewith, then all such ordinances or parts of those ordinances remain in full force and effect, and the provisions of this Ordinance are considered supplemental to them.

Section 7. Failure to collect.

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 F.S. §§775.082--775.084. (Ord. No. 98-23, § 4, 12-15-98; Ord. No. 2004-05, § 4, 2-24-04).

Section 8. Prohibited Acts.

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 F.S. §§ 775.082--775.084. (Ord. No. 98-23, § 5, 12-15-98; Ord. No. 2004-05, § 5, 2-24-04).

Section 9. Enforcement; Lien.

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 F.S. §§ 713.67--713.69. (Ord. No. 98-23, § 6, 12-15-98; Ord. No. 2004-05, § 6, 2-24-04).

Section 10. Inclusion in Code.

It is the intention of the Board of County Commissioners of Walton County, Florida, and it is hereby provided that the provisions of this Ordinance shall become and be made a part of the Code of Walton County, Florida; that the word "ordinance: may be changed to "section," "article" or other appropriate designation; and shall be organized in such a manner so that is consistent with Divisions I and II of Article II in Chapter 19 of the Code of Walton County, Florida.

Section 11. Effective Date & Expiration Date.

This Ordinance shall take effect as provided bylaw; provided, however, that the effective date of the levy and imposition made hereby, and the commencement of collection of The 1/2 Cent Tax hereunder, shall be October 1, 2009, and shall The 1/2 Cent Tax hereby levied shall expire on September 30, 2014.

PASSED AND ADOPTED this 11th day of August, 2009.

**BOARD OF COUNTY COMMISSIONERS
OF WALTON COUNTY, FLORIDA**

Sara Comander
Sara Comander, Chairman

ATTEST:
Martha Ingle
for Martha Ingle, Clerk of Court

Reviewed and Approved as to Form and Content:

[Signature]
Office of County Attorney