

WALTON COUNTY, FLORIDA
Board of County Commissioners

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ORDINANCE 2021 - 01

AN ORDINANCE OF WALTON COUNTY, FLORIDA, LEVYING AND IMPOSING A TWO PERCENT (2%) TOURIST DEVELOPMENT TAX ON THE TAXABLE PRIVILEGE AS DESCRIBED IN SECTION 125.01 04(3), FLORIDA STATUTES, INCLUDING BUT NOT LIMITED TO, CERTAIN PERSONS WHO RENT, LEASE OR LET ANY LIVING QUARTERS OR ACCOMMODATIONS IN ANY HOTEL, APARTMENT HOTEL, MOTEL, RESORT MOTEL, APARTMENT MOTEL, ROOMING HOUSE, MOBILE HOME PARK, RECREATIONAL VEHICLE PARK, OR CONDOMINIUM FOR A TERM OF SIX (6) MONTHS OR LESS, WITHIN WALTON COUNTY FLORIDA, NORTH OF THE CHOCTAWHATCHEE BAY / INTRACOASTAL WATERWAY, PURSUANT TO THE "LOCAL OPTION TOURIST DEVELOPMENT ACT," SECTION 125.01 04, FLORIDA STATUTES; PROVIDING FOR COLLECTION OF THE TAX, PROVIDING FOR AND ADOPTING THE WALTON COUNTY TOURIST DEVELOPMENT PLAN TO BE FUNDED FROM THE REVENUE TO BE RECEIVED FROM THE TAX; PROVIDING FOR PENALTIES; PROHIBITING RELIEF FROM IMPOSITION OF THE TOURIST DEVELOPMENT TAX; PROVIDING THAT THE TAX CONSTITUTES A LIEN; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE WALTON COUNTY CODE; PROVIDING AN EFFECTIVE DATE; PROVIDING FOR REPEAL.

WHEREAS, Section 125.0104, Florida Statutes, provides the procedure for the consideration and levy of a tourist development tax by the governing board of each county within the State of Florida; and

WHEREAS, the Board of County Commissioners of Walton County, Florida, through Ordinance 2020-13 did cause a referendum to be placed before the voters of Walton County north of the Choctawhatchee Bay / Intracoastal Waterway, and;

WHEREAS, referendum question posed was a For/Against decision on the levy of a tourist development tax at the rate of 2% pursuant to Florida law in the portion of Walton County lying north of the Choctawhatchee Bay / Intracoastal Waterway, and;

WHEREAS, at the general election held November 3, 2020, the electorate voted by more than a majority vote "For" the measure, and;

WHEREAS, §125.014 Fla. Stat. requires a plan for the use of the anticipated revenue to be adopted, and;

WHEREAS, the Walton County Tourist Development Council has considered the proposed tourist development plan at its December 1, 2020 meeting, and recommend approval thereof to the Board of County Commissioners;

WHEREAS, all exemptions allowed under the provisions of Section 212.03, Florida Statutes, shall apply.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Walton County, Florida as follows:

SECTION 1: TAX LEVIED

- a) There is hereby levied, imposed, and set a tourist development tax in Walton County, north of the Choctawhatchee Bay / Intracoastal Waterway, at a rate of two percent (2%) 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, mobile home park, recreational vehicle park, or condominium for a term of six (6) months or less, unless such person rents, leases or lets for consideration any living quarters or accommodations which are exempt according to the provisions of Chapter 212 of the Florida Statutes. 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 non-monetary consideration.
- b) The tourist development tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees, and the consideration 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) The person receiving the consideration for such rental or lease shall receive, account for; and remit the tax to the Walton County Clerk of the Circuit Court and Comptroller (hereinafter the "Clerk"), at the time and in the manner provided for persons who collect and remit taxes under Section 212.03, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon persons 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 Florida Department of Revenue (hereinafter the "DOR"), 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, "DOR" may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration for such rental or lease for the preceding quarter did not exceed Twenty-five Dollars (\$25.00).

SECTION 2: COLLECTION OF TOURIST DEVELOPMENT TAX

- a) **Collection and administration of tax.** The person receiving the lease or rental consideration (also referred to herein as the "dealer") for any period subsequent to July 30, 1991, shall receive, account for, and remit the tax to the "Clerk," who shall be responsible for the collection of the tax from the "dealer" and the administration of the tax. The "Clerk" shall keep appropriate records, books, and accounts of said remittances.
- b) **Duties and privileges of "dealers."** The same duties and privileges imposed by Florida Statutes, Chapter 212, upon "dealers" in tangible property, respecting the collection and remission of the tax, the making of returns, the keeping of books, records, and accounts, and the payment of a "dealer's" credit as required under Florida Statutes, Chapter 212, Part 1, shall apply to and be binding upon all persons who are subject to the provisions of this article; however, the "clerk" may authorize a quarterly return and payment when the tax remitted by the "dealer" for the preceding quarter did not exceed twenty-five dollars (\$25.00).
- c) **Remittance of tax.** All taxes collected under this article shall be remitted to the "Clerk," who shall collect and administer the tax according to the provisions of Florida Statutes, Chapter 212, Part 1, and shall have the same powers, duties, and responsibilities as "DOR" under Florida Statutes, Chapter 212, Part 1.

- d) **Promulgation of rules and forms.** The "Clerk" shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purposes of this article.
- e) **Enforcement and audit functions.** The "Clerk" shall perform the enforcement and audit functions associated with the collection and remission of the tax, including, without limitation, the following:
- 1) **Examination of books and records.** For the purpose of enforcing the collection of the tax levied by this article, the "Clerk" 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 article, in order to determine whether they are collecting the tax or otherwise complying with this article. In the event said "dealer" or person refuses to permit such examination of its books, records, or other documents by the "Clerk" as aforesaid, such "dealer" or person is guilty of a violation of this article and shall be subject to the penalties provided for in Florida Statutes § 125.69. The "Clerk" shall have the right to proceed in Circuit Court to seek a mandatory injunction or other appropriate remedy to enforce its rights against the offender, as granted by this section, to require an examination of the books and records of such "dealer."
 - 2) **"Dealer" to maintain books and records.** Each "dealer" shall secure, maintain, and keep for a period of three (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" for the reasonable administration of this article; and all such records which are located or maintained in the County shall be open for inspection by the "Clerk" 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 the County must make such books and records available for inspection by the "Clerk" in the County. Any "dealer" subject to the provisions of this article who violates these provisions is guilty of a violation of this article, punishable as provided in Florida Statutes § 125.69.
 - 3) **Notification of audit.** The "Clerk" shall send written notification, at least sixty (60) days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The "Clerk" is not required to give sixty (60) days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.
 - a) Such written notification shall contain:
 - 1) The approximate date on which the auditor is scheduled to begin the audit.
 - 2) A reminder that all records, receipts, invoices, exemption certificates, and related documentation of the taxpayer must be made available to the auditor.
 - 3) Any other request or suggestions the "Clerk" may deem necessary.
 - b) Only records, receipts, invoices, exemption certificates, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.
- f) **Responsibility for auditing, assessing, collecting, and enforcing payment.** The county, through the "Clerk," assumes all responsibility for auditing the records and accounts of "dealers" and assessing, collecting, and enforcing payment of delinquent taxes. The County adopts and delegates to the "Clerk" any and all powers and authority granted to "DOR" in Florida Statutes § 125.0104 and Part I of Chapter 212, and as further incorporated therein, to determine the amount of the tax, penalties, and interest to be paid by each "dealer" and to enforce payment of such tax, penalties, and interest.
- g) **Failure to charge and collect tax.** Any "dealer," either by himself or through his or her agents or employees, who fails or refuses to charge and collect the taxes herein provided is personally liable for the payment of the tax and is punishable as provided by law.

- h) **Absorption and relief of tax prohibited.** No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax; that he or she 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 this provision is punishable as provided by law.
- i) **Tax constitutes lien on property.** The tax levied pursuant to this article 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 Florida Statutes § 713.67, 713.68, and 713.69.
- j) **Use of tax revenues.** Tax revenues collected hereunder may be used only in accordance with the provisions of Florida Statutes, § 125.0104.
- k) **Taxes are county funds.** All taxes imposed by this article shall become county funds at the moment of collection and shall for each month be due to the "Clerk" on the first day of the succeeding month and be delinquent on the twenty-first day of such month. All returns postmarked after the twentieth day of such month are delinquent.
- l) **Remittance of taxes collected and interest thereon to "Clerk".** All taxes collected hereunder, less the costs of administration on the collections received, shall be remitted monthly to the "Clerk" and placed in the Walton County Tourist Development Council account.
- m) **Costs of administration.** A portion of the tax collected may be retained by the "Clerk" for the costs of administration, but such portion shall not exceed three (3) percent of collections. The percentage of tax revenues retained by the "Clerk" for the costs of administration will be accounted for by the "Clerk" in the same manner in which other fees and commissions paid to the "Clerk" by the board are accounted. The excess fees will be distributed to the board in accordance with Florida Statutes § 218.36.

SECTION 3: TOURIST DEVELOPMENT PLAN

- a) The tax revenues received pursuant to this Ordinance shall be used to fund the Walton County Tourist Development Plan Supporting the Expansion to include north of the Choctawhatchee Bay / Intracoastal Waterway, which is hereby adopted as follows:
- b) The area to be included within the sub-county special district shall be as follows: All of Walton County lying north of Choctawhatchee Bay / Intracoastal Waterway.
- c) The anticipated net tourist development tax revenue to be derived by the County for the 24 months following the levy of the tax at 2% is approximately 620,000 Dollars (\$620,000.00). The following is a list, in the order of priority, of the proposed uses of the funds anticipated expense allocation for each specific project or special use:

1) Tourism Advertising/Promotions/Materials	40%
2) Shoulder Season Advertising/Promotions	10%
3) Product Development	40%
4) Administration	10%
- d) The use of the monies set forth above shall be accomplished by and through referencing the objectives in the adopted TDC strategic plan covering the 24-month period, while maintaining the recommended reserve funds, supporting needs in the case of a crisis situation within the taxing district.

- e) The Tourist Development Plan may not be amended except by Ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners.
- f) The Plan and Tax shall continue until amended or repealed according to this Ordinance and Section 125.0104, Florida Statutes. Appropriations of the Tourist Development Tax shall be budgeted and approved by the Board of County Commissioners.

SECTION 4: FAILURE TO COMPLY, PENALTY

Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the tax 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 first degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

SECTION 5: RELIEF FROM TAX, PENALTY

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 first degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.

SECTION 6: TAX CONSTITUTES LIEN

The tax authorized to be 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, Section 713.68, and Section 71 3.69, Florida Statutes.

SECTION 7: SEVERABILITY

It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or provision of this Ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this Ordinance.

SECTION 8: INVALID OR UNCONSTITUTIONAL SECTIONS

It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provisions not been included herein.

SECTION 9: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Ordinance or statute, the most restrictive requirements shall apply.

SECTION 10: CODIFICATION; INCLUSION IN CODE AND SCRIVENER'S ERRORS

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Walton County code; and that sections of this Ordinance may be renumbered or relettered and that the word "Ordinance" may be changed to "section," "article," or other such appropriate word or phrase in order to accomplish such intention; and regardless of whether such inclusion in the code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Administrator or

designee, without need of public hearing, by filing a corrected or recodified copy of same with the Walton County Clerk of the Circuit Court and Comptroller.

SECTION 11: EFFECTIVE DATE

This Ordinance shall become effective in accordance with the provisions of Florida Statutes Section 125.66. Once adopted by the Walton County Board of County Commissioners, this Ordinance shall become effective March 1, 2021.

SECTION 12: REPEAL

All Ordinance or parts of Ordinances in conflict herewith are, to the extent of the conflict, hereby repealed as of the Effective Date of this Ordinance.

PASSED AND ADOPTED this 12th day of January 2021.



By: _____

Trey Nick
Trey Nick, Chairman
Walton County Board of County Commissioners

ATTEST

for

Dori Cordle

Alex Alford, Clerk of Circuit Court
and County Comptroller