

ORDINANCE NO. 2010-11

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, LEVYING AN ADDITIONAL 1% (ONE PERCENT) TOURIST DEVELOPMENT TAX AS AUTHORIZED BY SECTION 125.0104(3)(I); PROVIDING FOR COLLECTION AND USE OF SAID TAX; PROVIDING FOR READJUSTMENT OF THE ALLOCATIONS OF THE TAX REVENUES IN THE TOURIST DEVELOPMENT PLAN; PROVIDING AN UPDATE OF THE TOURIST DEVELOPMENT PLAN; PROVIDING FOR INCORPORATION INTO THE FLAGLER COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 125.0104(3)(I), Florida Statutes, provides that a governing board of a county may levy, impose, and set an additional 1% (one percent) of each dollar above the tax rates set under Section 125.0104, subsections (3)(c) & (3)(d), Florida Statutes;

WHEREAS, Flagler County through Ordinance 86-14 provided for a 2% (two percent) Tourist Development Tax throughout Flagler County in accordance with Section 125.0104(3)(c), Florida Statutes;

WHEREAS, Flagler County adopted another 1% (one percent) Tourist Development Tax through Ordinance 2004-02 in accordance with Section 125.0104(3)(d), Florida Statutes;

WHEREAS, the Flagler County Tourist Development Council (TDC) has made a recommendation to the Board of County Commissioners to increase the Flagler County TDC tax by an additional 1% (one percent) pursuant Section 125.0104(3)(I), Florida Statutes, and to designate such revenue to the category of tourism promotion and advertising; and

WHEREAS, the Board of County Commissioners recognizes and approves the recommendation from the Tourist Development Council to increase TDC revenues for the purposes of promoting tourism within Flagler County.

NOW THEREFORE BE IT ORDAINED BY THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS:

Section 1. There is hereby levied and imposed an additional 1% (one percent) Tourist Development Tax throughout Flagler County, Florida, in accordance with Section 125.0104(3)(I), Florida Statutes.

Section 2. Article IIII of the Flagler County Code is hereby amended to read as follows (underlining indicates new language and strike outs are deletions):

Sec. 19-47. – Levy of tourist development tax.

(a) In accordance with Flagler County Ordinance 86-14, ~~There~~ is hereby levied and imposed a tourist development tax throughout Flagler County, Florida, at the rate of two (2) 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, unless such living quarters or accommodations are exempt according to the provisions of Chapter 212, 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 nonmonetary considerations.

(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 and 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 State of Florida Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under Ch. 212.03, Florida Statutes. The same duties and privileges imposed by Chapter 212, Florida Statutes, upon dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of records and accounts, and compliance with the rules of the Florida 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 ordinance provided, however, the said Department of Revenue 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).

(e) Collections received by the state department of revenue from the tax, less cost of administration of this article, shall be paid and returned on a monthly basis to the county for use by the county in accordance with the provisions of this article and shall be placed in the county tourist development trust fund, which fund shall be established by resolution of the board of county

commissioners prior to the receipt of any tax revenues pursuant to this article.

Sec. 19-48. - Tourist development plan.

(a) The tax revenues received pursuant to ~~this article~~ Ordinance 86-14 shall be used to fund the county tourist development plan, ~~which is hereby adopted~~ as follows:

TOURIST DEVELOPMENT PLAN

(1) Under the provisions of the Local Option Tourist Development Tax Act a two (2) percent tourist development tax will be levied throughout the county beginning on the first day of the month following approval of Ordinance No. 86-14 by referendum. The anticipated net revenue for the twenty-four-month period beginning on the date of levy is one hundred thousand dollars (\$100,000.00).

(2) The following categories of use of the tax are hereby set forth together with the percentage of the total amount of yearly revenues to be expended for or credited to each category under Ordinance 86-14 as amended by Ordinance 2003-09:

	Percentage
Category A: Capital projects	30
Category B: Promotion and advertising	55
Category C: Beach restoration and maintenance	15

(b) The tourist development plan set out in this section as authorized by Section 125.0104(4), Florida Statutes, may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the board of county commissioners.

Section 3. There is hereby created in Article III of the Flagler County Code the following new section governing the fourth percent of tourist development tax and the resulting adjustment of the percentages for the authorized categories for expenditures:

Sec. 19-51. - Levy of additional one percent tourist development tax.

(a) There is hereby levied and imposed an additional one (1) percent tourist development tax throughout Flagler County, Florida, in accordance with Section 125.0104(3)(l), Florida Statutes.

(b) The additional one (1) percent tax authorized by this article shall be used solely as authorized by Section 125.0104(3)(l), Florida Statutes. The revenue from this one (1) percent shall be allocated to Category B, Promotion and Advertising. Any changes to this allocation shall require a majority vote of the board of county commissioners in accordance with Section 125.0104(3)(l), Florida Statutes.

(c) The effective date of the levy and imposition of the foregoing one (1) percent tourist development tax shall be December 1, 2010. As of December 1, 2010, there will be a total of four (4) percent tourist development tax representing one (1) percent from this section, in addition to the two (2) percent tax authorized by Ordinance 86-14 and the one (1) percent tax authorized by Ordinance 2004-02.

(d) Based on the categories adopted in the tourist development plan and the cumulative revenues to be derived from the four (4) percent tax, the revised percentages for the gross revenue are as follows:

	Percentage
Category A: Capital projects	22.50
Category B: Promotion and advertising	66.25
Category C: Beach restoration and maintenance	11.25

Section 4. The provisions of this Ordinance shall be made a part of the Flagler County Code. The codifier of the Code shall change headings and re-letter and renumber sections hereof as necessary for that purpose.

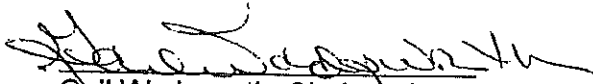
Section 5. If any section, subsection, sentence, clause, phrase or provision of this Ordinance is held to be unconstitutional or otherwise invalid by a court of competent jurisdiction, such unconstitutionality or invalidity shall not be construed as to render unconstitutional or invalid the remaining provisions of this Ordinance.

Section 6. This Ordinance shall take effect upon filing with the Department of State, per Section 125.66, Florida Statutes.

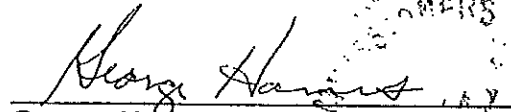
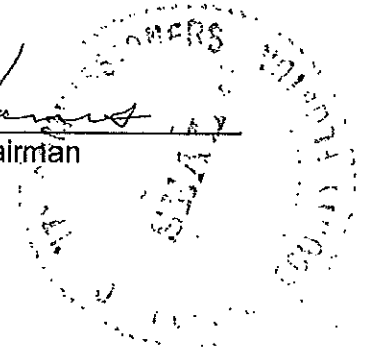
ADOPTED this 18 day of October 2010, by the Board of County Commissioners, Flagler County, Florida.

**FLAGLER COUNTY BOARD
OF COUNTY COMMISSIONERS**

ATTEST:



Gail Wadsworth, Clerk and
Ex Officio Clerk to the Board


George Hanns, Chairman

APPROVED AS TO FORM:


Al Hadeed, County Attorney