

ORDINANCE NO.: 2010- 13

AN ORDINANCE OF ST. JOHNS COUNTY, FLORIDA, AMENDING ST. JOHNS COUNTY ORDINANCE NUMBER 86-72, AS PREVIOUSLY AMENDED; PROVIDING FOR FINDINGS OF FACT; AMENDING AND CHANGING THE TOURIST DEVELOPMENT PLAN TO INCLUDE AMONG OTHER THINGS A PURPOSE STATEMENT, NARRATIVE DESCRIPTIONS OF GENERAL SPENDING CATEGORIES, AN ADDITIONAL SPENDING CATEGORY, REALLOCATION OF REVENUE GAINED FROM THE THIRD CENT OF TOURIST DEVELOPMENT TAXES, AND ALLOCATION OF REVENUE GAINED FROM THE FOURTH CENT OF TOURIST DEVELOPMENT TAXES; PROVIDING FOR AN ANNUAL TOURIST DEVELOPMENT TAX REVENUE BUDGET; PROVIDING FOR USE OF TAX REVENUES FOR ANNUAL BOND PAYMENTS; PROVIDING FOR NOTICE TO THE DEPARTMENT OF REVENUE; PROVIDING FOR STATUTORY VOTING REQUIREMENTS; PROVIDING FOR REPEAL OF INCONSISTENT PROVISIONS; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

RECITALS

WHEREAS, pursuant to Section 125.0104 of the Florida Statutes, known as the “Local Option Tourist Development Act” (“the Act”), the Board of County Commissioners (“Board”) passed and enacted St. Johns County Ordinance Number 86-72 on September 16, 1986; and

WHEREAS, among other things, Ordinance Number 86-72 levied, imposed and set a tourist development tax throughout St. Johns County at a rate of two percent (2%) of each whole and major fraction of each dollar of the total rental and consideration 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; and

WHEREAS, Ordinance Number 86-72 also established the original St. Johns County Tourist Development Plan (“the Plan”), which sets forth uses and allocation of revenues derived from the tourist development tax; and

WHEREAS, from time to time, the Plan has been amended and changed; and

WHEREAS, on November 12, 1991, pursuant to Section 125.0104(3)(d), F.S., the Board passed and enacted St. Johns County Ordinance Number 91-44, which levied and imposed an additional one percent (1%) tourist development tax above the rate set under St. Johns County Ordinance Number 86-72 for a total cumulative rate of three percent (3%); and

WHEREAS, on December 17, 2009, pursuant to Section 125.0104(3)(l), F.S., the Board passed and enacted St. Johns County Ordinance Number 09-62, which levied and imposed an additional one percent (1%) tourist development tax above the rate set under St. Johns County Ordinance Numbers 86-72 (*as previously amended*) and 91-44 (*as previously amended*) for a total cumulative rate of four percent (4%); and

WHEREAS, in accordance with Section 125.0104(4)(e) of the Act, on March 15, 2010, the Tourist Development Council (“TDC”) reviewed the existing Plan, particularly use categories, tax revenue allocation and expenditures; and

WHEREAS, based upon its review, the TDC recommended that amending and changing the existing Plan to, among other things, include a purpose statement, include narrative descriptions of the spending categories, include an additional spending category, reallocate revenues derived from the third cent of tourist development taxes, and allocate revenues derived from the fourth cent of tourist development taxes would further advance and promote tourism in St. Johns County; and

WHEREAS, Section 125.0104(4)(d) of the Act provides for amendment and change to the Plan by an affirmative vote of a majority plus one additional member of the Board; and

WHEREAS, the Board desires to act positively and favorably to the TDC's recommendation, and consistent with Section 125.0104(4)(d) of the Act; and

WHEREAS, the Board has determined that amending and changing the Plan would serve the best interests of the citizens of St. Johns County by further advancing and promoting tourism within the County.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, that:

Section 1. Findings of Fact.

The above Recitals are incorporated by reference into the body of this Ordinance and such Recitals are adopted as Findings of Fact.

Section 2. Tourist Development Plan.

Tax revenues received pursuant to Ordinance Numbers 86-72, 91-44 and 09-62, *as respectively amended*, shall be used to fund the St. Johns County Tourist Development Plan, which is hereby amended and changed as follows:

St. Johns County Tourist Development Plan

Section 1. Purpose.

In accordance with Section 125.0104 of the Florida Statutes (also cited as the "Local Option Tourist Development Act"), this Tourist Development Plan ("Plan") establishes, in the order of priority, the uses of the local option tourist development tax revenue by specific project or special use as authorized under applicable provisions of Section 125.0104, F.S. This Plan also includes the expense allocation by percentage for each specific project or special use.

Section 2. Use and Allocation of Tax Revenues.

The following categories of use of each individual percent of the local option tourist development tax ("bed tax") are set forth below in subsection A, with the percentage of the total amount of the yearly revenue to be expended for, or credited to, each category set forth in subsection B:

A. Categories of Use.

- (1) **DESTINATION MARKETING:** In accordance with Section 125.0104, F.S., provide for the marketing and promotion in the state, nationally, and internationally of St. Johns County as a tourist destination by means including, but not limited to, effective advertising; dissemination of editorial and promotional messages; and the use of electronic and web-based media outlets; and travel industry and consumer direct sales initiatives.
- (2) **ARTS & CULTURE:** In accordance with Section 125.0104 F.S., provide for cultural, historical, literary, fine and non-fine arts entertainment, festivals, programs and activities that directly promote St. Johns County tourism.
- (3) **LEISURE & RECREATION:** In accordance with Section 125.0104 F.S., provide for the current and future obligations, associated with or related to, acquiring, constructing, extending, enlarging, remodeling, repairing, improving, maintaining, operating, and promoting publicly-owned leisure/recreational activities and facilities, deemed tourist-related by the Board of County Commissioners ("Board"); to provide for beach park facilities, beach improvement, maintenance, renourishment, restoration and erosion control; and to provide for the solicitation or production of amateur or professional sporting events and activities conducted for the purpose of attracting visitors either as participants or spectators to St. Johns County.
- (4) **ADMINISTRATIVE EXPENSES/SPECIAL USES/SPECIAL EVENTS:** In accordance with Section 125.0104, F.S., provide for administrative costs, operational expenses, payment on debt services, special projects and events, including, but not limited to, the following:
 - a. *Administrative Expenses:*
 - (1) Costs and fees paid to the St. Johns County Tax Collector for the collection of the bed tax revenues;
 - (2) Costs and fees paid to the St. Johns County Clerk of the Courts for auditing taxpayer accounts;
 - (3) Administrative staff salaries, benefits, administrative travel, and all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, except that funds for contractual services from the administrative budget may be expended upon the express approval of the Board, following consideration and recommendation by the Tourist Development Council. Such expenses shall equal an amount up to five percent (5%) above the previous annual budgeted amount;
 - (4) Indirect administrative costs;
 - (5) Insurance costs;

- (6) Contractual Services as may be deemed necessary from time to time by the Tourist Development Council, and to the extent permissible under Section 125.0104, F.S.

b. *Special Uses:*

- (1) Tourist Development Fund Reserves. An amount to be determined annually by the Tourist Development Council, but not to exceed five percent (5%) of the gross anticipated fiscal year projected revenue.
- (2) Tourism Related Capital Projects. At St. Johns County's sole discretion, bed tax revenues may be used for the following payments:
 - i. The St. Augustine Amphitheatre annual bond payment of up to \$260,000;
 - ii. All or a part of the St. Johns County Convention Center annual bond payment to be made by St. Johns County due to the credit given to Assessment Contributors in the calculation of the Shortfall Assessments to be paid by the Assessment Contributors (as such capitalized terms are defined in the Special Assessment Agreement, St. Johns County Taxable Convention Center Revenue Bonds, Series 1996, dated July 24, 1996, as amended and supplemented).

c. *Special Events* (for the purpose of attracting tourists to St. Johns County), including, but not limited to:

- i. Nights of Lights programs within the City of St. Augustine and St. Augustine Beach up to \$100,000;
- ii. Annual holiday fireworks displays in St. Augustine and St. Augustine Beach up to \$60,000 per year combined;
- iii. THE PLAYERS golf tournament – up to \$200,000 per year.

d. *Visitor Information Centers.* Operations of Official Visitor Information Centers within St. Johns County up to \$350,000 per year.

B. Percent of Annual Revenue.

Category	1 st Percentage Tax	2 nd Percentage Tax	3 rd Percentage Tax	4 th Percentage Tax
(1)	40%	40%	0%	100%
(2)	30%	30%	0%	0%
(3)	30%	30%	0%	0%
(4)	0%	0%	100%	0%
TOTAL	100%	100%	100%	100%

C. Remainder Of 3rd Percentage Tax Funds

Any revenue generated from the 3rd Percentage Tax remaining after expenditures for specific purposes or projects listed in Sections 2.A and 2.B of this Plan, shall be allocated among Categories (1), (2), and (3) as follows:

- (1) DESTINATION MARKETING – 40% of total remaining funds.
- (2) ARTS & CULTURE – 30% of total remaining funds.
- (3) LEISURE & RECREATION – 30% of total remaining funds.

D. Earned Interest and Category Fund Retention.

- (1) *Earned Interest Revenue.* Interest revenue shall be retained in each use category based upon the prior month's appropriation balance less encumbrances.
- (2) *Category Fund Retention.* The previous fiscal year's category use appropriations or any actual residual funds shall remain within the use category for its stated purpose.

Section 3. Availability of Funds.

Expenditures for specific projects or special uses provided in this Plan, and as authorized under applicable provisions of Section 125.0104, F.S., shall be subject to the availability of revenue funds.

Section 4. Review of the Plan.

In accordance with Section 125.0104, F.S., the Tourist Development Council shall, from time to time, make recommendations to the Board for the effective operation of the special projects or for uses of the bed tax revenue. The Tourist Development Council shall continuously review expenditures of bed tax revenues, and shall receive, at least quarterly, expenditure reports from the Tourist Development Council Executive Director. The Tourist Development Council shall report to the Board any unauthorized expenditures of tax revenues. The Board shall review the Tourist Development Council's findings regarding such expenditures, and take appropriate administrative or judicial action to ensure compliance with Section 125.0104, F.S.

Section 5. Amendment of the Plan.

In accordance with Section 125.0104, F.S., this Plan may not be substantially amended except by ordinance, enacted by an affirmative vote of a majority plus one additional member of the Board.

Section 3. Tourist Development Tax Revenue Budget.

By no later than July 1st of each year, the Tourist Development Council shall present and recommend to the Board a proposed Annual Tourist Development Tax Revenue Budget for the following fiscal year.

Section 4. Use of Tax Revenues for Annual Bond Payments.

To the extent St. Johns County determines to use the tax revenues received pursuant to Section 125.0104(3)(d) of the Act for annual bond payments relating to the St. Augustine Amphitheatre and/or the St. Johns County Convention Center described in the Plan, subject to the availability of such tax revenues, such use is hereby approved in accordance with Section 125.0104(3)(d) of the Act.

Section 5. Notice to the Department of Revenue.

The Board directs the Clerk to notify the Florida Department of Revenue that this Ordinance has been enacted, and to furnish the Florida Department of Revenue with a certified copy of this Ordinance within ten (10) days of enactment of this Ordinance.

Section 6. Statutory Voting Requirements.

In accordance with Section 125.0104, F.S., Section 2 of this Ordinance entitled “Tourist Development Plan” and Section 4 of this Ordinance entitled “Use of Tax Revenues for Annual Bond Payments” require an affirmative vote of a majority plus one additional member of the Board in order to be in effect and enforced.

Section 7. Repeal of Inconsistent Provisions.

All provisions contained in or associated with any prior ordinances or resolutions, which are deemed inconsistent or in conflict with the provisions set forth above, are hereby repealed to the extent of such inconsistency or conflict.

Section 8. Savings Clause.

Notwithstanding anything to the contrary, and for purposes of this Ordinance, all other provisions contained in prior ordinances or resolutions associated with Ordinance Number 86-72 (*as previously amended*) are specifically preserved and remain in full force and effect.

Section 9. Severability.

It is the intent of the Board, and it is hereby provided that if any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such word, phrase, clause, section or portion shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining words, phrases, clauses, sections, or portions hereof.

Section 10. Effective Date.

This Ordinance shall take effect upon its filing in the Office of the Secretary of State, State of Florida.

PASSED AND ENACTED by the Board of County Commissioners of St. Johns County, Florida, this 16th day of April, 2010.

**ST. JOHNS COUNTY BOARD
OF COUNTY COMMISSIONERS**

By: Ron Sanchez
Ron Sanchez, Chair

ATTEST: Cheryl Strickland, Clerk
By: Cheryl Strickland
Deputy Clerk

Rendition Date: April 7, 2010

Effective Date: April 8, 2010





FLORIDA DEPARTMENT *of* STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

KURT S. BROWNING
Secretary of State

April 8, 2010

Ms. Cheryl Strickland
Clerk of the Circuit Court
St. Johns County
4010 Lewis Speedway
St. Augustine, Florida 32084-8637

Attention: Ms. Yvonne King, Deputy Clerk

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated April 7, 2010 and certified copies for St. Johns County Ordinance Nos. 2010-12 through 2010-14, which were filed in this office on April 8, 2010.

Sincerely,

Liz Cloud
Program Administrator

LC/srd

DIRECTOR'S OFFICE

R.A. Gray Building • 500 South Bronough Street • Tallahassee, Florida 32399-0250
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FLORIDA DEPARTMENT of STATE

CHARLIE CRIST
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

DAWN K. ROBERTS
Interim Secretary of State

May 28, 2010

Ms. Cheryl Strickland
Secretary
St. Johns County Board of County Commissioners
500 Sebastian View
St. Augustine, Florida 32084

2010 JUN -2 AM 11:02
CLERK COUNTY COMMISSION
ST. JOHNS COUNTY FL

FILED

Attention: Ms. Yvonne King, Deputy Clerk, Minutes and Record Division

Dear Ms. Strickland:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated May 24, 2010 and corrected copies of St. Johns County Ordinance Nos. 2010-12 and 2010-13, which were received in this office on May 27, 2010.

Sincerely,

Liz Cloud (handwritten signature)

Liz Cloud
Program Administrator

LC/srd

DIRECTOR'S OFFICE

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