

ORDINANCE NUMBER 86- 72

AN ORDINANCE TO LEVY AND IMPOSE A TWO (2) PERCENT TOURIST DEVELOPMENT' TAX THROUGHOUT ST. JOHNS COUNTY PURSUANT TO THE "LOCAL OPTION TOURIST DEVELOPMENT ACT" FLORIDA STATUTE 125.0104; PROVIDING FOR THE COLLECTION OF SAID TAX; PROVIDING THAT THE REVENUE SO RAISED BE UTILIZED TO IMPLEMENT THE ST. JOHNS COUNTY TOURIST DEVELOPMENT PLAN; PROVIDING FOR THE ADOPTION OF, AND ADOPTING THE ST. JOHNS COUNTY TOURIST DEVELOPMENT PLAN; PROVIDING FOR A REFERENDUM ON THE TOURIST DEVELOPMENT TAX; RATIFYING THE CREATION OF THE ST. JOHNS COUNTY TOURIST DEVELOPMENT COUNCIL BY ORDINANCE 86-62 AND PROVIDING POWERS AND DUTIES THEREFOR; PROVIDING FOR A TOURIST DEVELOPMENT TRUST FUND; PROVIDING FOR FAILURE TO COLLECT THE TAX LEVIED; PROHIBITING CERTAIN TAX RELATED ADVERTISING; CREATING A LIEN ON THE PROPERTY OF THE TENANT FOR NONPAYMENT OF TAX; PROVIDING FOR SEVERABILITY OF ORDINANCE PROVISIONS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Florida Statute 125-0104, provides for the levy of a local option tourist development tax by any county; and

WHEREAS, under the provisions of Florida Statute 125.0104, this Board did on July 8, 1986, adopt a resolution and ordinance establishing and appointing the members of the St. Johns County Tourist Development Council; and

WHEREAS, on August 26, 1986, said Tourist Development Council presented to this Board its plan for tourist development;

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

SECTION 1: (a) There is hereby levied and imposed and set a tourist development tax throughout St. Johns County, Florida, at the 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 6 months or less. 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, as amended, 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 by such person 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 Section 212.03, Florida Statutes, as amended. The same duties and privileges imposed by Chapter 212, Florida Statutes, as amended, 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 Florida Department of Revenue in the administration of said chapter shall apply to and be binding upon 'El I I 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 persons

receiving the consideration for such rental or lease for the preceding quarter did i-iot exceed \$25.00 or such other amount as set by law.

(e) Collections received by the said Department of Revenue from the tax, less costs of administration as allowed by law shall be paid and returned, on a monthly basis, to St. Johns County for use by the county in accordance with the provisions of this ordinance and shall be placed in the tourist development trust fund established by St. Johns County.

SECTION 2. The tax revenues received pursuant to this ordinance shall be used to fund the St. Johns County tourist development plan, which is attached hereto as Exhibit A and which is hereby adopted and incorporated into this ordinance.

SECTION 3. The establishment of the St. Johns County Tourist Development Council (hereinafter the "Council"), by St. Johns County ordinance and resolution 86-62, is hereby ratified and confirmed. In addition to the powers and duties described in Florida Statutes 125-0104 and in said ordinaries and resolution the Council shall continuously review all expenditures of revenue raised by the tax hereby levied and shall receive, at least quarterly, expenditure reports from the Board of County Commissioners of St. Johns County or its designee. The Council shall report to the Board of County Commissioners and to the Department of Revenue all expenditures of said revenue believed to be unauthorized by the provisions of this ordinance. The Board of County Commissioners, upon receiving notification of expenditures believed to be unauthorized by the Council shall

review the Council's findings and take such administrative or judicial action as it sees fit to insure compliance with this ordinance and the provisions of Florida Statute 125.0104, as amended.

SECTION 4. Notwithstanding anything to the contrary that may be contained in the plan described in Section 2 above, revenues received pursuant to this ordinance shall be used by the County only for the purposes authorized by Florida Statute 125.0104, as amended from time to time.

SECTION 5. Pursuant to Florida Statute 125.0104, a referendum election shall be held in St. Johns County and the supervisor of elections shall cause to be placed on the ballot for the November 1986 general election, the question of the approval or disapproval of this ordinance, such question to appear on the ballot substantially as follows:

Tourist Development Tax

A tourist development tax providing for a two (2) percent tax on motel and hotel room rentals and certain transient or short-term (six months or less) living accommodation rentals in St. Johns County, Florida. The tax will not be on food or beverage, or other items for sale. The tax proceeds are to be used to promote and assist tourism for St. Johns County, Florida as described in the ordinance establishing the tax.

\_\_\_\_\_ FOR the Tourist Development Tax

\_\_\_\_\_ AGAINST the Tourist Development Tax

SECTION 6. After the ordinance becomes effective and prior to the receipt by St. Johns County of tax revenue obtained pursuant to this ordinance, the County shall establish a St. Johns County Tourist Development Trust Fund for receipt by the County of the tourist development tax proceeds transmitted from

the Department of Revenue to the County as required by Florida Statute 125.0104.

SECTION 7. 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 as amended.

SECTION 8. 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, or 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 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 as amended.

SECTIO14 9. 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 Sections 713.67, 713.68, and 713.69, Florida Statutes as amended.

SECTION 10. 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.

SECTION 11. This ordinance shall become effective on the first day of the month following its being approved in a referendum election, held for the purpose of approving or rejecting this ordinance, by a majority of the electors voting in such referendum election, and upon receipt of official acknowledgment by the office of the Secretary of State to the Clerk of the Board of County Commissioners of St. Johns County, Florida that same has been filed, whichever event is later. A certified copy hereof shall also be furnished by the Clerk to the State of Florida, Department of Revenue.