

ORDINANCE NO. 13-19

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, AMENDING ORDINANCE 12-21 AND SECTIONS 20-71 AND 20-72 OF THE OKALOOSA COUNTY CODE OF ORDINANCES, RELATING TO THE COLLECTION OF TOURIST DEVELOPMENT TAX REVENUES; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Section 125.0104, Florida Statutes, known as the “Local Option Tourist Development Act”, the Board of County Commissioners (“Board”) has authorized the collection of five cents of tourism development tax per dollar exchanged on certain short-term lodging rental transactions within the sub-county tourism development district, created the County’s initial Tourist Development Plan (the “Plan”) and established the Okaloosa Tourist Development Council (the “Council”); and

WHEREAS, the Okaloosa County Tax Collector has requested that the Board transfer the duties and responsibilities related to collection of the tourist development tax from the Clerk of Court to the Tax Collector; and

WHEREAS, at its March 19, 2013 meeting, the Board approved such request and authorized the Tax Collector to begin collecting the tourist development tax effective October 1, 2013; and

WHEREAS, the Board hereby finds that it is necessary to amend Okaloosa County Ordinance 12-21 and Section 20-71 and 20-72 of the Okaloosa County Code of Ordinances in order to effectuate the change in collection authority.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA:

SECTION 1. Section 20-71, Code of Ordinances is hereby amended as follows:

Sec. 20-71. - Tax levied; collection; remittance.

* * *

- (d) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the Board of County Commissioners (the "Board") at the same 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 dealers in tangible property, respecting the collection and remission of tax, the making of returns, the keeping of books, records and accounts, the payment of a dealer's credit, and compliance with the rules of the Okaloosa County Tax Collector (the "Tax Collector") in the administration of said chapter shall apply to and be binding on all persons who are subject to the provisions of this article; provided, however, the Tax Collector may authorize a quarterly payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.00.
- (e) The Tax Collector shall keep records showing the amount of taxes collected, which records shall be open to the public during the regular office hours of the Tax Collector, subject to the provisions of Section 213.053, Florida Statutes.
- (f) Collections received by the Tax Collector, less costs of administration of this article, shall be paid on a monthly basis, to the Board for use by the county in accordance with the provisions of this article and shall be placed in the county tourist development trust fund.
- (g) The Tax Collector is authorized to employ persons and incur other expenses necessary to administer this article.
- (h) The Tax Collector may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purpose of this article.
- (i) The Tax Collector shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:
 - (1) a. For the purpose of enforcing the collection of the tax levied by this article, the Tax Collector 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.

- b. In the event such dealer refuses to permit such examination of its books, records, or other documents by the Tax Collector as aforesaid, such dealer is guilty of a misdemeanor of the first degree, punishable as provided in Sections 775.082, 775.083, or 775.084, Florida Statutes. The Tax Collector shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce his right against the offender, as granted by this section, to require an examination of the books and records of such dealer.
- (2)
- a. Each dealer, as defined in this article, shall secure, maintain, and keep for a period of three years, a complete record of rooms or other lodging, leased or rented by the dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the Tax Collector for the reasonable administration of this article; and all such records which are maintained in this state shall be open for inspection by the Tax Collector at all reasonable hours at such dealer's place of business located in the county.
 - b. 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 Tax Collector. Any dealer subject to the provisions of this article who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in Sections 775.082, 775.083, or 775.084, Florida Statutes.
- (3)
- a. The Tax Collector shall send written notification, at least 30 days prior to the date an auditor is scheduled to begin an audit. The Tax Collector is not required to give 30 days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.
 - b. Such written notification shall contain:
 - 1. The approximate date on which the auditor is scheduled to begin the audit.
 - 2. A reminder that all of the records, invoices, and related documentation must be made available to the auditor.

3. Any other requests or suggestions the Tax Collector may deem necessary.
 - c. Only records, receipts, invoices, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.
- (4) All taxes collected under this article shall be remitted to the Board of County Commissioners, Attention: Finance officer.
- (5)
 - a. In addition to criminal sanctions, the Tax Collector is empowered, and it shall be his duty, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due, or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular sheriffs of the state, and shall record the warrant in the public records of the county, and thereupon the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment.
 - b. The Tax Collector may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to the sheriff. The sheriff shall then proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected.
 - c. The Tax Collector may also have a writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the Tax Collector shall satisfy the lien of record within 30 days.
- (j) Tax revenues may be used only in accordance with the provisions of Section 125.0104, Florida Statutes.
- (k) Three percent of the tax collected herein shall be retained by the Tax Collector for costs of administration. The remainder of the tax shall be deposited in the county tourist development trust fund on a monthly basis.

SECTION 2. Section 20-72, Code of Ordinances is hereby amended as follows:

Sec. 20-72. - Tourist development plan.

- (a) *Revenue projections.* The tax revenues pursuant to this section for the next fiscal year and thereafter until amended by the Board shall be used to fund the Okaloosa County Tourist Development Plan, which is hereby adopted as follows:

The anticipated annual revenues to be produced by the tourist development tax as identified herein in parenthesis for each budget category is provided as an annual total based on past collection trends projected forward. The projected revenues are estimates and may vary from those identified herein. The amounts shown have already been reduced by the costs of administration retained by the Tax Collector.

* * *

- (c) *County tourist development plan.* The county hereby determines that the tourist development plan for the sub-district shall be comprised of the following broad goals and objectives and makes the following findings of fact:

- (4) *Administration.* The county determines that the best means for administration of the tourism tax revenues allocated under this plan is local administration by the Director of the Tourist Development Department under the direction of the County Administrator. The administration of the revenue collection process shall be carried out under a subcontract with the Tax Collector.

SECTION 3. EFFECT. The remaining provisions of Ordinance 12-21 and Sections 20-72 and 20-77 of the Okaloosa County Code of Ordinances shall remain in full force and effect.

SECTION 4. CODIFICATION IN THE CODE OF ORDINANCES. It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Okaloosa County Code of Ordinances, and that the sections of this Ordinance may be renumbered to accomplish such intent.

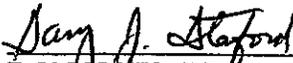
SECTION 5. SEVERABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

SECTION 6. EFFECTIVE DATE. This Ordinance shall be effective on October 1, 2013.

PASSED AND ADOPTED in Regular Session this 16th day of April, 2013.

BOARD OF COUNTY COMMISSIONERS
OF OKALOOSA COUNTY, FLORIDA

ATTEST:


DON HOWARD,
Clerk of Court




DON R. AMUNDS,
Chairman

