

**BEFORE THE BOARD OF COUNTY COMMISSIONERS  
MARTIN COUNTY, FLORIDA**

**ORDINANCE NUMBER 967**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, AMENDING CHAPTER 71, FINANCE AND TAXATION, ARTICLE 6, TOURIST DEVELOPMENT TAXES, GENERAL ORDINANCES, MARTIN COUNTY CODE; AMENDING SECTIONS 71.238.A, B, H AND K REGARDING THE MEMBERSHIP AND DUTIES OF THE TOURIST DEVELOPMENT COUNCIL; AMENDING SECTION 71.239A INCREASING THE AMOUNT OF TOURIST TAX TO BE LEVIED FROM FOUR TO FIVE PERCENT; AMENDING SECTION 71.242 TO REFLECT THE INCREASE OF TOURIST DEVELOPMENT TAX FROM FOUR TO FIVE PERCENT; AMENDING SECTION 71.243.B TO CHANGE THE DEVELOPMENT PLAN'S CATEGORIES OF USE AND PERCENTAGES OF TAX REVENUES; PROVIDING FOR CONFLICTING PROVISIONS, SEVERABILITY AND APPLICABILITY; AND PROVIDING FOR FILING WITH THE DEPARTMENT OF STATE AND DEPARTMENT OF REVENUE, CODIFICATION AND EFFECTIVE DATE**

WHEREAS, Martin County, pursuant to Section 125.0104(3)(C), Fla. Stat., currently collects a four percent tax on transient lodging receipts for overnight accommodations of less than six months' continuous duration; and

WHEREAS, Section 125.0104(3)(n), Fla. Stat., authorizes the County to impose an additional one percent levy of the above described tax for those purposes set forth in Section 125.0104(5), Fla. Stat., upon an extraordinary vote of the Board of County Commissioners (Board); and

WHEREAS, the Board has determined that it is in the best interest of the citizens of Martin County to increase the amount of the Tourist Development Tax, pursuant to the above described statute, from four percent to five percent; and

WHEREAS, Section 71.242, General Ordinances, Martin County Code, requires that tourist tax funds be used to fund the Tourist Development Plan (Plan); and

WHEREAS, the Board contracted with a destination marketing consultant for recommendations concerning Martin County tourist development; and

WHEREAS, the Tourist Development Council (Council) and the Board reviewed such consultant's report; and

WHEREAS, Pursuant to Section 71.244, General Ordinances, Martin County Code, the Council and the Board have reviewed the Plan; and

WHEREAS, it is necessary to amend the plan to provide for the expenditure of the additional tax revenues as well as to amend the Plan to implement changes to the allocation of tax revenue and to implement changes related to the Tourist Development Council in accordance with Florida law; and

WHEREAS, amendments to the Plan must be enacted by ordinance by an affirmative vote of a majority plus one (1) additional member of the Board of County Commissioners (not less than four (4) County Commissioners).

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MARTIN COUNTY, FLORIDA, THAT:**

**PART ONE: Sec. 71.238. Tourist Development Council is hereby amended as follows:**

**Sec. 71.238. Tourist Development Council.**

71.238.A. *Establishment; membership.* There is hereby established, pursuant to the provisions of F.S. § 125.0104, an advisory council to be known as the "Martin County Tourist Development Council", hereinafter referred to as the "council". The council shall be composed of nine members. One member of the council shall be the chairperson of the board or any other member of the board, as designated by the chairperson, who shall also serve as Chair of the council. The remaining eight members of the council shall be appointed by the board and shall have the following representative classifications:

1. Two members who are elected municipal officials, one of whom shall be from the most populous municipality in the county.
2. ~~Three~~Four members who are owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax.
3. ~~Three~~Two members who are involved in the tourist industry and who have demonstrated an interest in tourist development, but who are not owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the County and subject to the tax.

71.238.B. *Terms and conditions of membership.* All members of the council shall be electors of the County at the time of appointment and while serving on the council. Members shall serve without compensation, but may receive actual and necessary expenses incurred in the performance of their official duties from the funds described in section 71.243B.61. (Category ~~FA~~) herein. The members of the council shall serve for staggered terms of ~~four~~four-years. Those members of the council appointed by the board in its resolution dated July 10, 2001, establishing the initial council, shall continue to serve in such capacities for the terms set forth therein. Members of the council may be reappointed, provided they continue to meet the qualifications of membership, and may be removed with or without cause in the same manner as is presently set forth by resolution for the appointment of such members. A vacancy on the council not occurring

by expiration of terms shall be filled by the board for the unexpired term in the same manner as is presently set forth by resolution for appointments to the council.

71.238.C. *Removal for lack of attendance.* Members of the council shall be automatically removed for lack of attendance. Lack of attendance means failure to attend three consecutive meetings and failure to attend more than one-half of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. ~~Excused absences due to illness, absence from the County, or personal hardship, if approved by vote of the council, shall not constitute lack of attendance.~~ Excused absences shall be entered into the minutes at the next regularly scheduled meeting of the council. Members removed under this paragraph shall not continue to serve until a new appointment is made and removal shall create a vacancy.

71.238.D. *Notice of meetings.* Reasonable public notice of all council meetings shall be provided and all such meetings shall be open to the public at all times.

71.238.E. *Annual report.* The council shall submit an annual report to the board pursuant to policies and procedures adopted by the board.

71.238.F. *Quorum.* A quorum must be present for the conduct of all council meetings. A majority of the members appointed shall constitute a quorum. All meetings shall be governed by Robert's Rules of Order.

71.238.G. *Recommendations to board.* The council shall, from time to time, make recommendations to the board for the effective operation of the special promotions and events or for uses of the tax revenue and perform such other duties as may be prescribed by ordinance or resolution of the board. Prior to making recommendations to the board as indicated above, the council shall review each proposal for expenditure of funds and determine that such expenditures comply with the tourist development plan set forth in section 71.242 herein.

71.238.H. *Review of expenditures.* The council shall continuously review ~~all~~ expenditures of revenues from the Tourist Development Trust Fund established pursuant to F.S. § 124.0104, and shall receive, at least quarterly, expenditure reports from the board or its designee. Expenditures ~~which that~~ the council believes to be unauthorized by the provisions of this section shall be reported to the board and the Florida Department of Revenue. The board, ~~upon receiving notification of expenditures believed to be unauthorized by the council,~~ shall review the council's findings and take such appropriate administrative or judicial action ~~as it sees fit~~ to ensure compliance with ~~this section and the provisions of F.S. § 124.0104.~~

71.238.I. ~~{Plan submittal.}~~ The council shall prepare and submit to the board, for its approval, a plan for tourist development. The plan shall set forth the anticipated net tourist development tax revenue to be derived by Martin County for 24 months following the levy of a tourist development tax enacted pursuant to F.S. § 124.0104; the tax district in which the tourist development tax is proposed; and a list, in the order of priority, of the proposed uses of tourist development tax revenue by specific promotion, event, or special use as authorized under F.S. § 124.0104(5). The plan shall include the approximate cost or expense allocation for each specific promotion, event, or special use.

71.238.J. ~~{Quarterly meetings.}~~ The council shall meet at least once each quarter and shall, from time to time, make recommendations to the board for the effective operation of special promotions, events, and for use of the tourist development tax revenue and perform such other duties as may be prescribed by resolution of the board.

~~71.238.K. {Review of expenditures.} The council shall continuously review expenditures of revenues from the Tourist Development Trust Fund established pursuant to F.S. § 124.0104, and shall receive, at least quarterly, expenditure reports from the board or its designee. Expenditures that the council believes to be unauthorized shall be reported to the board and the Florida Department of Revenue. The board shall review the council's findings and take appropriate administrative or judicial action to insure compliance with F.S. § 124.0104.~~

**PART TWO: Sec. 71.239.A. Levy of tourist development tax is hereby amended as follows:**

~~Subject to voter approval as hereinafter set forth the board hereby approves:~~

71.239.A. ~~{Levy and imposition of tax established.}~~ The levy and imposition of the tourist development tax (hereinafter the "tax") throughout Martin County, Florida, is hereby established and enacted herein at a rate of two percent of each dollar and major fraction of each dollar of the total consideration charged for leases and rentals subject to the tax. The tax shall commence on the first day of the second month following approval of the ordinance by referendum, held on September 10, 2002. The tax is hereby increased by an additional one percent in accordance with Section 125.0104(3)(d), Fla. Stat., and a second additional one percent in accordance with Section 125.0104(3)(l), Fla. Stat., for a total tax of four percent, beginning on March 1, 2008. The tax is hereby increased by an additional one percent in accordance with Section 125.0104(3)(n), Fla. Stat., for a total tax of five percent, beginning on July 1, 2015. The tax shall be applicable to 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 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 F.S. ch. 212. 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 consideration.

71.239.B. *Boundaries for tax district.* The district in which the tourist development tax is levied shall include the entirety of Martin County.

71.239.C. ~~{Tax as additional tax.}~~ The tax shall be in addition to any other tax imposed pursuant to F.S. ch. 212, and in addition to all other taxes and fees and the consideration for the rental or lease.

71.239.D. ~~{Tax charged by and collection from.}~~ The 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.

71.239.E. *Initial collection.* The initial collection of the tax shall continue to be made in the same manner as the tax imposed under F.S. ch. 212, Part I.

71.239.F. *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 the effective date of the levy and imposition of the tax, shall receive, account for, and remit the tax to the Martin County Tax Collector (hereinafter the "Tax Collector"), who shall be responsible for the collection of the tax from the dealer and the administration of the tax. The Tax Collector shall keep appropriate records, books, and accounts of said remittances. The term "Tax Collector", for the purposes of this section, shall include any person in the office of the Tax Collector designated to carry out the duties and responsibilities prescribed herein.

71.239.G. *Duties and privileges of dealers.* The same duties and privileges imposed by F.S. ch. 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 F.S. ch. 212, Part I, shall apply to and be binding upon all persons who are subject to the provisions of this section; however, the Tax Collector may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.00.

71.239.H. *Remittance of tax.* All taxes collected under this section shall be remitted to the Tax Collector, who shall collect and administer the tax according to the provisions of F.S. ch. 212, Part I, and shall have the same powers, duties, and responsibilities as the Florida Department of Revenue under F.S. ch. 212, Part I.

71.239.I. *Promulgation of rules and forms.* The Tax Collector shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

**PART THREE: Sec. 71.242, Tourist development plan, is hereby amended as follows:**

**Sec. 71.242. Tourist development plan.**

The tax revenues received pursuant to this section shall be used to fund the Martin County Tourist Development Plan ("the plan"), which is hereby adopted as follows:

71.242.A. *Anticipated revenues.* The tourist development tax shall be levied at a rate of ~~four~~ five percent of each dollar and major fraction of each dollar of the total consideration charged for leases and rentals subject to the tax. The anticipated net tourist development tax revenue to be derived by Martin County for the 24 months following the levy of the ~~four~~five-cent tax is ~~\$2,520,000.00~~\$3,200,000.00, less costs of administration and collection as retained by the board and the Tax Collector.

71.242.B. *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, the plan establishes the uses of the tax revenue by specific promotion, event, or special use as authorized in F.S. § 125.0104(5). The plan also includes the expense allocation by percentage for each specific promotion, activity or special use.

71.242.C. *Use and allocation of ~~four-five~~ percent tax.* The following categories of use of the ~~four-five~~ percent tax are set forth in Sec. 71.243 herein, together with the percentage of the total amount of yearly revenues to be expended for, or credited to, each category, less cost of collection and administration, subject to the provisions of this ordinance and the approval of the annual Tourist Development Council budget by the Board. ~~The Board agrees to review and reconsider the Tourist Development Plan's allocation to Category I as described herein no later than January 1, 2010.~~

**PART FOUR: Sec. 71.243, Uses of funds, is hereby amended as follows:**

**Sec. 71.243. Uses of funds.**

The tax revenues received pursuant to this ordinance shall be used to fund the Martin County Tourist Development Plan, which is hereby adopted as follows:

71.243.A. *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, this tourist development plan establishes the uses of the tax revenue by specific promotion, event, or special use as authorized in F.S. § 125.0104(5). The plan also includes the expense allocation by percentage for each specific promotion, activity or special use.

71.243.B *Categories of Use and Percentages of tax revenues.* The following categories of use of the ~~four-five~~ percent tax are set forth together with a table of the tax percentages of the total amount of yearly revenues by category:

*~~Percentages~~*

1. *Category A:* Promote and advertise Martin County tourism related activities throughout the State, nationally and internationally for the purpose of development of overnight tourism, including the provision of tourism promotion, advertising, marketing, public relations, and sales including arts, film and television marketing and development. There shall be an annual amount established within this category for administrative expenses, which shall not exceed fifteen percent of the total Tourist Development Trust Fund budget, as approved by the Council and the Board. Administrative expenses shall include administrative staff salaries, benefits, administrative travel, indirect costs, all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, actual and necessary expenses of Council members incurred in the performance of their official duties as provided herein, except that funds for contractual services from the administrative budget may be expended only upon the express prior approval of the Council.
2. *Category B:* Provide for the promotion of sports events and activities to promote the County as a sports destination.

~~Category B: Provide for youth and adult sporting activities, eco-tourism, nature-based and heritage tourism, cultural, fine and non fine arts entertainment,~~

~~festivals, programs, and other activities~~events, which promote county overnight tourism.

3. ~~Category C: Provide for the operation of a tourist information center as established and approved through the annual budget.~~
4. ~~Category D: Provide for an account which shall be reserved for special major promotions and events which may arise from time to time, including unforeseen crisis communication needs, offering the County the opportunity to further, advance, improve, promote, and generate overnight county tourism. The Council shall review such promotions and events to ensure that the expenditure of such funds is authorized under Florida Statutes, § 25.0104(5), and is consistent with the plan. The reserve account shall not exceed \$250,000.00. In the event the account balance does exceed \$250,000.00 the excess revenues shall revert to Categories A, B, C, and E in equal amounts.~~
5. ~~Category E: There shall be an annual amount established within this category for administrative expenses, which shall not exceed fifteen percent of the total Tourist Development Trust Fund budget, as approved by the Council and the Board. Administrative expenses shall include administrative staff salaries, benefits, administrative travel, indirect costs, all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, actual and necessary expenses of Council members incurred in the performance of their official duties as provided herein, except that funds for contractual services from the administrative budget may be expended only upon the express prior approval of the Council.~~
- 3.6. Category CF: Provide for the acquisition, construction, extension, enlargement, remodeling, repair and/or improvement of a museum, exposition center, nature center and other tourist-related attractions.
7. ~~Category G: Provide for the promotion of cultural and fine and non fine arts entertainment, festivals, programs and events which directly promote County tourism.~~
8. ~~Category CH: Provide for the promotion of sports events and activities to promote the County as a sports destination.~~
49. Category DF: To finance beach improvement and maintenance, maintenance of the St. Lucie Inlet as well as those uses set forth in F.S. § 125.0104(5)(a)(5), and as may thereafter be amended. The dedicated maintenance funding of the St. Lucie Inlet shall not exceed Five Hundred Thousand Dollars (\$500,000.00) per fiscal year. Provide for publicly accessible beach park facilities or beach improvement and maintenance. This account shall not exceed \$75,000. In the event that the account balance does exceed \$75,000, the excess revenue shall revert to categories A, B, C, D, and E in equal amounts.

Percentage of annual revenue:

TABLE OF TAX PERCENTAGES:

Category	<del>1<sup>st</sup> Cent and 2<sup>nd</sup> Cent</del> F.S. §125.0104 (3)(c)	2 <sup>nd</sup> Cent F.S. <u>§125.0104</u> (3)(e)	3 <sup>rd</sup> Cent F.S. §125.0104 (3)(d)	4 <sup>th</sup> Cent F.S. §125.0104 (3)(1)	5 <sup>th</sup> Cent F.S. <u>§125.0104</u> (3)(n)	Total
A: Promotion	<del>60.00%</del>	<u>45%</u>	00.00%	<del>33.34%</del> <u>40%</u>	<u>100%</u>	<del>38.34%</del> <u>37.00%</u>
<del>B: Grants</del> <del>-Sports</del> <del>Promotion</del>	<del>07.00%</del>	<u>00.00%</u>	00.00%	<del>00.00%</del> <u>60.00%</u>	<u>00.00%</u>	<del>03.50</del> <u>12.00%</u>
<del>C: Tourist</del> <del>Information</del> <del>Center</del> <del>C. Capital</del> <del>Projects</del>	<del>04.00%</del>	<u>00.00%</u>	<del>00.00%</del> <u>30%</u>	<del>00.00%</del>	<u>00.00%</u>	<del>02.00%</del> <u>6%</u>
<del>D: Special</del> <del>Events/Reserv</del> <del>e</del> <del>D. Beach &amp;</del> <del>Inlet</del> <del>Inlet capped</del> <del>at \$500k</del>	<del>04.00%</del> <u>100%</u>	<u>55%</u>	<del>00.00%</del> <u>70%</u>	<del>00.00%</del>	<u>00.00%</u>	<del>02.00%</del> <u>45%</u>
<del>E:</del> <del>Administration</del>	<del>12.50%</del>		<del>00.00%</del>	<del>00.00%</del>		<del>06.25%</del>
<del>F: Capital</del> <del>Projects</del>	<del>00.00%</del>		<del>100.00%</del>	<del>00.00%</del>		<del>25.00%</del>
<del>G: Arts</del> <del>Promotion</del>	<del>00.00%</del>		<del>00.00%</del>	<del>33.33%</del>		<del>08.33%</del>
<del>H: Sports</del> <del>Promotion</del>	<del>00.00%</del>		<del>00.00%</del>	<del>33.33%</del>		<del>08.33%</del>
<del>I: Beaches</del>	<del>12.50%</del>		<del>00.00%</del>	<del>00.00%</del>		<del>06.25%</del>

71.243.C. ~~{Funds on deposit; investment.}~~ Any funds on deposit, which are not immediately necessary for expenditure, shall be invested by the County. All income derived from such investments shall be deposited in the specific TDC trust fund from which the invested funds came.



71.243.D. ~~{Funding of convention bureau or similar organization.}~~ Tourist development tax revenues may be used to fund a convention bureau, tourist bureau, or similar organization as a County agency or by contract with a not-for-profit association in the County, which may include any indirect administrative costs for services performed by the County on behalf of the promotion agency, provided such contract is approved by the Board of County Commissioners, and that tourist development tax revenues are used for specified purposes delineated in the Tourist Development Plan.

**PART FIVE. CONFLICTING PROVISIONS.**

Special acts of the Florida Legislature applicable only to unincorporated areas of Martin County, County ordinances and County resolutions, or parts thereof, in conflict with this ordinance are hereby superseded by this ordinance to the extent of such conflict.

**PART SIX. SEVERABILITY.**

If any portion of this ordinance is for any reason held or declared to be unconstitutional, inoperative or void, by a court of competent jurisdiction, such holding shall not affect the remaining portions of this ordinance. If this ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances by a court of competent jurisdiction, such holding shall not affect its applicability to any other person, property or circumstances.

**PART SEVEN. APPLICABILITY OF ORDINANCE.**

This ordinance shall be applicable throughout Martin County's jurisdiction.

**PART EIGHT. FILING WITH DEPARTMENT OF STATE.**

The Clerk be and hereby is directed forthwith to scan this ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission.

**PART NINE. FILING WITH THE DEPARTMENT OF STATE AND DEPARTMENT AND DEPARTMENT OF REVENUE.**

The Clerk shall be and is hereby directed forthwith to scan this Ordinance in accordance with Rule 1B-26.003, Florida Administrative Code, and file same with the Florida Department of State via electronic transmission. The Clerk is further directed to send a certified copy of this Ordinance to the Florida Department of Revenue.

**PART TEN. EFFECTIVE DATE.**

This ordinance shall take effect upon filing with the Department of State.

**PART ELEVEN. ENACTMENT OF ORDINANCE.**


Pursuant to Section 71.245, General Ordinances, Martin County Code, the above amendments to the Tourist Development Plan are hereby made by ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners (not less than four County Commissioners).

**PART TWELVE. CODIFICATION.**

Provisions of this ordinance shall be incorporated in the County Code, except parts Four to Eleven shall not be codified. The word "ordinance" may be changed to "section," "article" or other word, and the sections of this ordinance may be renumbered or re-lettered.

DULY PASSED AND ADOPTED THIS 20<sup>th</sup> DAY OF JANUARY, 2015.

ATTEST:

  
CAROLYN TIMMANN, CLERK  
OF THE CIRCUIT COURT AND  
COMPTROLLER

MARTIN COUNTY, FLORIDA, a political  
subdivision of the State of Florida,  
By: Its Board of County Commissioners

  
ED FIELDING, CHAIRMAN

Date Signed: 1-22-15

APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY

  
MICHAEL D. DURHAM,  
COUNTY ATTORNEY