

ORDINANCE NO. 86-27

AN ORDINANCE LEVYING A TWO (2%) PERCENT TOURIST DEVELOPMENT TAX THROUGHOUT POLK COUNTY, FLORIDA, PURSUANT TO THE "LOCAL OPTION TOURIST DEVELOPMENT ACT", FLORIDA STATUTES 125.0104; PROVIDING FOR AND ADOPTING A TOURIST DEVELOPMENT PLAN AND PROVIDING FOR THE EXPENDITURE OF REVENUES THEREFOR; ESTABLISHING A POLK COUNTY TOURIST DEVELOPMENT COUNCIL; PROVIDING FOR THE MEMBERSHIP, POWERS, AND DUTIES THEREOF; PROVIDING FOR PENALTIES; PROVIDING FOR A REFERENDUM ELECTION ON THE QUESTION OF WHETHER THIS ORDINANCE AND THE TOURIST DEVELOPMENT TAX SHALL BE APPROVED; PROVIDING FOR REPEAL OF THIS ORDINANCE UNDER CERTAIN CONDITIONS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125.0104, Florida Statutes, provides for the levy of a local option tourist development tax by any county; and

WHEREAS, under the provision of said law, the Board of County Commissioners, Polk County, Florida, did on August 5, 1986, adopt a resolution establishing and appointing the members of the Polk County Tourist Development Council; and

WHEREAS, by motion of the Tourist Development Council dated August 18, 1986, the council submitted its plan for tourist development;

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

Section 1. (a) There is hereby levied and imposed and set a tourist development tax throughout Polk County, Florida, at a rate of two percent (2%) 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. 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 non-monetary considerations.

(b) The tourist development tax shall be in addition to

any 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 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 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, 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 act; 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 \$25.00.

(e) The said Department of Revenue shall keep records showing the amount of taxes collected, which shall also include records disclosing the amount of taxes collected for and from each county in which the tax authorized by this act is applicable. These records shall be open to the public during the regular office hours of the said Department of Revenue, as provided in Section 213.072, Florida Statutes.

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

(g) The said Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ persons and incur other expenses as appropriate by the legislature of the State of Florida to administer this ordinance.

(h) The said Department of Revenue may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purposes of this ordinance.

Section 2. The tax revenues received pursuant to this ordinance shall be used to fund the Polk County Tourist Development Plan, which is hereby adopted as follows:

TOURIST DEVELOPMENT PLAN

Under the provisions of the Local Option Tourist Development Act, a two percent (2%) tourist development tax will be levied throughout Polk County. The anticipated net revenue for a twenty-four (24) month period is \$600,000.

The following categories of use of the tax are hereby set forth together with the percentage of the total amount of revenues to be expended for each category:

- A. Fifty-five percent (55%)-Advertising, Promotions and Research
- B. Fifteen percent (15%)-Administrative
- C. Fifteen percent (15%)-Cultural and Arts
- D. Fifteen percent (15%)-Construction

The above and foregoing tourist development plan may not be amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners.

Section 3. There is hereby established, pursuant to the provisions of Section 125.0104, Florida Statutes, an advisory council to be known as the "Polk County Tourist Development Council". The council shall be composed of nine members who shall be appointed by the Board of County Commissioners. The Chairman of the Board of County Commissioners or its designee

shall serve as Chairman of the council. Two members of the council shall be elected municipal officials. Three members of the council shall be owners or operators of motels, hotels or other tourist accommodations located in Polk County and subject to the tax hereby levied. Three members of the council shall be persons 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 or other tourist accommodations in Polk County. All members of the council shall be electors of Polk County. The members of the council shall serve for staggered terms of four (4) years.

Those members of the Council appointed by the Board of County Commissioners in its Resolution dated August 5, 1986, establishing the initial Council shall serve in said capacities for the terms set forth therein. Members of the Council may be reappointed, provided they continue to meet the qualifications for membership, and may be removed by the Board of County Commissioners for cause. A vacancy on the Council not occurring by expiration of terms shall be filled by the Board of County Commissioners by appointment for the unexpired term.

The council hereby established shall, from time to time, make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the tourist development tax revenue raised by the tax hereby levied and may perform such other duties or functions as hereinafter may be prescribed by ordinance or resolution.

The council shall continuously review all expenditures of revenue raised by the tax hereby levied, receive at least quarterly expenditure reports for the Board of County Commissioners or its designee, and shall report to the Board of County 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 Section 125.0104, Florida Statutes.

Section 4. Any person convicted of violating any portion of this ordinance shall be punished as provided by law.

Section 5. Pursuant to Section 125.0104, Florida Statutes, a referendum election shall be held in Polk County and the County shall cause to be placed on the ballot at the next regular election the question of the approval or disapproval of this ordinance, such question to appear on the ballot as follows:

Shall an ordinance, as adopted by the Board of County Commissioners, be approved which provides for a two percent (2%) tourist development tax on motel, hotel and other certain transient or short term living accommodation rentals. The tourist development tax will not be on food, beverage, or other items for sale. Tax revenues shall be expended according to a tourist development plan contained within the ordinance.

_____ For the Tourist Development Tax

_____ Against the Tourist Development Tax

Section 6. Upon petition of fifteen percent (15%), or more, of the electors of Polk County, the Board of County Commissioners shall cause an election to be held for the repeal of this ordinance and the tourist development tax levied subject only to any outstanding revenue bonds for which the tax has been pledged.

Section 7. 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 8. 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 its being filed with the Office of the Secretary of State in Tallahassee, Florida with a certified copy hereof being furnished to the State of Florida, Department of Revenue.



P O L K C O U N T Y

Clerk of the Board of
County Commissioners
P. O. Box 988
Bartow, Florida 33830

E.D. "BUD" DIXON
CLERK OF THE CIRCUIT COURT AND COUNTY COURT

November 21, 1986

Executive Director
Florida Department of Revenue
Carlton Building
Tallahassee, Florida 32301

Dear Sir:

This letter is to inform you that the referendum election held in Polk County, Florida, on November 4, 1986, on the question of approval or disapproval of an Ordinance providing for a two (2%) Tourist Development Tax passed and Polk County Ordinance No. 86-27 will become effective December 1, 1986 which is the first day of the month following its approval at the referendum election.

With kind regards, I am

Yours very truly

E. D. "BUD" DIXON
Clerk

By
Martha Whitehurst
Deputy Clerk

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