

ORDINANCE NO. 2002-003

AN ORDINANCE LEVYING AND IMPOSING A TOURIST DEVELOPMENT TAX; ADOPTING THE GADSDEN COUNTY TOURIST DEVELOPMENT PLAN; PROVIDING FOR VOTER APPROVAL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes section 125.0104 provides for local option for the establishment of a Gadsden County Tourist Development Council (referred to as the Council herein) and for the declaration of the intent of the Board of County Commissioners of Gadsden County (the Board) to consider the levy and imposition of a tourist development tax under section 125.0104; and

WHEREAS, the Council has duly met and adopted a Tourist Development Plan in accordance with the provisions of Fla. St. section 125.0104(4)(c); and

WHEREAS, the Board of County Commissioners of Gadsden County has determined that it is in the best interests of the residents and citizens of the County that the Plan be approved and adopted by the Board and the Gadsden County Tourist Development Council and that, in accordance with the Plan, the Board shall levy and impose a tourist development tax under section 125.0104, subject to all requirements of the statute (including a referendum as required thereby);

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Gadsden County, Florida, that:

1. Adoption of Plan. There is hereby adopted, pursuant to Fla. St. section 125.0104, the Gadsden County Tourist Development Plan, a true copy of which is attached to and incorporated into this ordinance as if fully set out herein (the "Plan" herein).

2. Levy of Tourist Development Tax. Subject to approval of this ordinance by referendum as set forth in Fla. St. section 125.0104, the Board of County Commissioners of Gadsden County, Florida, hereby levies a two-cent sales surtax on those transactions described in Fla. St. section 125.0104 for the purposes expressed herein and in the Plan.

3. Use of Proceeds. The proceeds of the two-cent sales surtax shall be used solely for those purposes authorized in Fla. St. section 125.0104.

4. Referendum. The Board directs that a referendum be held on the levy and imposition of the tax set forth herein at the November 5, 2002 election. The Supervisor of Elections is directed to place on the ballot the following question:

_____ FOR the Tourist Development Tax
_____ AGAINST the Tourist Development Tax

The Supervisor of Elections shall report the official results of the election to the Board in accordance with law.

5. **Severability.** It is declared to be the intent of the Board 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 portions shall be deemed a separate, distinct, and independent provision, and such holdings shall not affect the validity of the remaining portions hereof.

6. **Effective Date.** This ordinance shall take effect as provided by law. The levy and tax provided for herein shall take effect on the first day of the second month following approval of this ordinance by referendum.

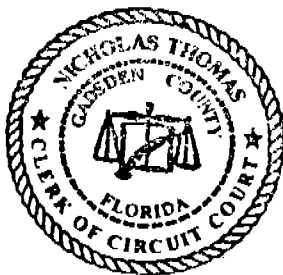
ORDAINED this 15th day of October, 2002.

BOARD OF COUNTY COMMISSIONERS
BY:

ATTEST:

Muriel Stroughton
Clerk/Deputy Clerk

Bill McGill
HON. BILL MCGILL



Gadsden County Tourist Development Plan

Revenue: *(based on Florida Department of Revenue Estimate)* \$60,000.00

<i>Expenses:</i> <i>Administration (10%)</i>	\$ 6,000.00
<i>Marketing (50%)</i>	30,000.00
<i>Infrastructure Improvements (20%)</i>	12,000.00
<i>Special Events (20%)</i>	<u>12,000.00</u>
 <i>Total Expenses</i>	 \$60,000.00

NOTICE OF INTENT

NOTICE IS HEREBY GIVEN

to all concerned that the Board of County Commissioners of Gadsden County, Florida intends at its regularly scheduled meeting at the Quincy Square County Office Complex in Quincy, Florida on the 15th day of October, A.D. 2002 to consider the enactment of the following:

AN ORDINANCE LEVYING AND IMPOSING A TOURIST DEVELOPMENT TAX; ADOPTING THE GADSDEN COUNTY TOURIST DEVELOPMENT PLAN; PROVIDING FOR VOTER APPROVAL; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

Said Ordinance is available for public inspection at the Office of the Gadsden County Clerk of the Circuit Court. Interested parties may appear at the hearing and be heard with respect to the proposed Ordinance.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO THIS MATTER, HE WILL NEED A RECORD OF PROCEEDINGS, AND FOR SUCH PURPOSE, HE MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

BOARD OF COUNTY COMMISSIONERS,
GADSDEN COUNTY,
FLORIDA.

By: NICHOLAS THOMAS,
Clerk

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Board of County Commissioners Agenda Request

Date of Meeting: December 2, 2008
Date Submitted: November 19, 2008
To: Honorable Chairman and Members of the Board
From: Marlon Brown, County Manager
Farnita L. Saunders, Community Development Director
Subject: **Public Hearing**--Approval to Amend Local Ordinance 2002-003
to Revise the Gadsden County Tourist Development Plan

Handwritten: 001, 50, [Signature]

Statement of Issue:

This agenda item seeks the Gadsden County Board of County Commissioners (BOCC) approval to amend Ordinance 2002-003 to revise the Gadsden County Tourist Development Plan.

Background:

On October 15, 2002, the Gadsden County Board of County Commissioners approved Ordinance 2002-003, levying and imposing a Tourist Development tax; adopting the Gadsden County Tourist Development Plan; providing for voter approval; providing for severability and an effective date of the tax. The BOCC directed a referendum to be held during the November 5, 2002 election to levy and impose the Tourist Development tax, with voters approving the levy of 2% tax.

Pursuant to Section 125.0104, Florida Statutes, the tax may be levied on 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, unless they are exempt under provisions of other Statutes. The tax is set by the governing body of the County at a rate of one percent (1%) to two percent (2%) of each dollar and major fraction of each dollar of the total consideration charged for such lease or rental.

In August 2006, the County determined the need to transfer administrative duties related to processing payables and ensuring fiscal accountability of the TDC to the Community Development Department. After further review of the bylaws and operational structure of the TDC, staff determined the need to restructure some the functions, address issues related to conflicts of interest and ensure the TDC operated based upon County policies.

In November 2006, the BOCC suspended operations of the TDC and authorized staff to proceed with processing payments directly to organizations awarded grants from the TDC until the BOCC approves a revised tourist development plan. Prior to the revision of the plan outlined in this agenda item, the TDC operated based upon spending categories not outlined in the plan. The TDC was made aware of this issue and was in agreement of the need to restructure the plan that sets forth actual spending allocations and uses of the tourist development tax.

During the April 3, 2007, the BOCC approved resumption of TDC operations. Since this time, the TDC has worked to develop its spending allocations based upon its goals and objectives, develop its marketing plan for a TDC image, sponsored two billboards and developed a grant process allowing for two grant cycles.

Analysis:

Tourist Development Plan

After the ordinance was adopted that levied and imposed the tax, the County was required to adopt a Tourist Development Plan. The plan may not be substantially amended except by ordinance by an affirmative vote of majority plus one member of the Gadsden County Board of County Commissioners. The plan must set forth the following minimum requirements:

1. Anticipated net tourist development tax revenue to be derived for the 24 months following the levy of the tax;
2. The tax district in which the tax is proposed; and,
3. A list, in order of priority, of the proposed uses of the tax revenue by project or special use. The plan must also include the approximate cost or expense allocation for each spending category, project or special use.

Summary of Tourist Development Plan Revisions

1. Specifies the anticipated net tourist development tax revenue for the 24 months following the levy of the tax.
2. Specifies the taxing district;
3. Outlines the proposed uses of the tax in priority order—(spending allocations).

Summary of Other Revisions to Grant Process (Portions reflected in TDC Plan)

Because the grant application is a document that is subject to change, it is not specifically attached to the Tourist Development Plan, which can only be amended substantially by ordinance; however, the overall basics of the grant application process are referenced in the plan. Therefore, the plan is developed in a simplistic format that meets the minimum requirements of Section 125.0104, Florida Statutes.

During the November 3, 2008 BOCC meeting, staff presented the grant funding process for discussion and direction. As a result, the BOCC directed staff to review and revise its grant guidelines to allow more flexibility related to funding events that do not generate room nights. Staff has incorporated this directive into the grant funding process and presented the proposed revisions to the TDC during its November 17, 2008 meeting. Organizations may receive grant funding under the grants category, but additional funding may be utilized from the marketing component to further assist in promoting events that have a substantial community impact, but may not generate any room nights. The TDC recommends adopting this specific change and continue to work on its marketing component by developing an internal marketing sub-committee comprised of three existing TDC members.

Other changes to the application and TDC operations include: Spending Allocations to reflect 10% reserves each year; ability to open more than two grant cycles per year, if necessary, reducing room night requirement by 50%; allowing TDC and BOCC discretion to fund organizations longer than 3 years before requiring they become self-sufficient and allowing the TDC to expend funds from previous year funding for valid marketing reasons or unforeseen events, subject to approval of a budget amendment by the BOCC. These changes are self-explanatory; however, a summary of the spending allocations is outlined below.

Spending Allocations	
Previous Allocations (Proposed Uses)	Revised Allocations
• Marketing – 50%	• Marketing/Direct Advertising – 60%
• Infrastructure – 20%	• Grants/Special Events – 30%
• Special Events – 20%	• Administration – 10%
• Administration – 10%	

Fiscal Impact:

These changes ensure a system of sound fiscal accountability, whereby the TDC remains within its spending allocations. The current Fiscal Year (2008-2009) projected revenue is \$50,380. As of November 17, 2008, total funds available, including funds for contingency and reserves from previous years, total \$171,303. However, staff recommends the expenditure of funds based solely on current year funds—(\$50,380). Should additional funds be required for additional marketing efforts or for unforeseen special events, a budget amendment will be prepared for approval by the BOCC.

Options:

- Option 1: Approve the amendment of Ordinance 2002-003 to revise the Gadsden County Tourist Development Plan.
- Option 2: Do not approve the amendment of Ordinance 2002-003 to revise the Gadsden County Tourist Development Plan.
- Option 3: Provide other direction.

Recommendation(s):

- Option 1: Approve the amendment of Ordinance 2002-003 to revise the Gadsden County Tourist Development Plan.

Attachment (s):

Ordinance to Amend Tourist Development Plan
Revised Tourist Development Plan

ORDINANCE NO. 2008- ____

AN ORDINANCE AMENDING CHAPTER TWO OF THE CODE OF LAWS OF GADSDEN COUNTY, FLORIDA; AMENDING ARTICLE FIVE , DIVISION THREE RELATED TO THE GADSDEN COUNTY TOURIST DEVELOPMENT COUNCIL; AMENDING THE TOURIST DEVELOPMENT PLAN PURSUANT TO CHAPTER 125.0104, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125.0104, Section (4)(d) provides that the plan for tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board; and

WHEREAS, the Gadsden County Board of County Commissioners deems it necessary to amend the tourist development plan to revise spending allocations and uses of the tourist development tax,

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

Tourist Development Plan

The tax revenues received pursuant to this Ordinance and Chapter 125.0104, Florida Statutes, shall be used to fund the Amended Gadsden County Tourist Development Plan (2008), which is attached hereto as Exhibit A and which is hereby adopted and incorporated into this ordinance.

Severability

If any word, phrase, clause, section or portion of this Ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Effective Date

This Ordinance shall have effect upon filing with the Department of State.

**BOARD OF COUNTY COMMISSIONERS
GADSDEN COUNTY, FLORIDA**

BY: _____
Eugene Lamb, Jr., Chairman

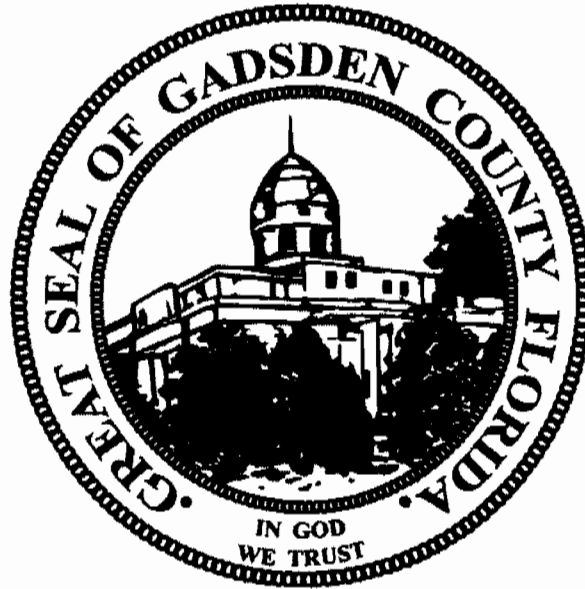
**ATTEST:
GADSDEN COUNTY CLERK OF COURT**

BY: _____
Nicholas Thomas

**APPROVED AS TO FORM:
COUNTY ATTORNEY**

BY: _____
Thornton Williams, Esquire

Gadsden County



Tourist Development Plan

REVISED 11/08

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Legislative Authority/History

The Florida State Legislature enacted the Local Option Tourist Development Act (Section 125.0104, Florida Statutes) in response to the growing need of Florida counties to provide additional revenue sources for tourist development and to stimulate the local economy

On October 15, 2002, the Gadsden County Board of County Commissioners approved Ordinance 2002-003, levying and imposing a Tourist Development tax; adopting the Gadsden County Tourist Development Plan; providing for voter approval, providing for severability and an effective date of the tax. The BOCC also directed a referendum to be held during the November 5, 2002 election to levy and impose the Tourist Development tax. The voters of Gadsden County approved a two (2%) percent tourist development tax on transient rental accommodations.

Since this time, the TDC has operated as a nine (9) member advisory council with members appointed by the BOCC for a four year staggered terms.

Organizational Structure

After the County imposed the tax, the Board appointed an advisory council consisting of nine members. Pursuant to Section 125.0104(4)(e), Florida Statutes, the nine member organizational structure of the TDC must consist of two members who are elected municipal officials; one of whom should be from the most populous municipality in the County. Six members of the council are persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three, nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. The Chair of the BOCC or the Chair's designee serves on the TDC. Additionally, members of the Council serve for staggered term of four (4) years.

Powers, Authority and Duties of the TDC:

The Gadsden County TDC is an advisory council to the BOCC and is authorized to perform the following functions:

- Make recommendations to the BOCC for uses of the tourist development tax revenue and for the effective operation of special projects.
- Meet and adopt a tourist development plan in according to provisions of Section 125.0104(4)(c), Florida Statutes.
- Review expenditures of revenues from the tourist development trust fund and receive, at least quarterly, expenditure reports from the BOCC or its designee.
- Report to the BOCC all expenditures of the revenue believed to be unauthorized by the provisions of the Statute.
- The TDC may also perform such other duties as prescribed by county ordinance or resolution pursuant to Section 125.0104(4)(e), Florida Statutes.

Tourist Development Plan

Once the tax was levied and approved by referendum, Ordinance 2002-003 was adopted which contains the county's Tourist Development Plan. After the ordinance levying and imposing the tax is adopted, the plan may not be substantially amended except by ordinance by an affirmative vote of majority plus one member of the Gadsden County Board of County Commissioners. The plan must set forth the following:

1. Anticipated net tourist development tax revenue to be derived for the 24 months following the levy of the tax;
2. The tax district in which the tax is proposed; and,
3. A list, in order of priority, of the proposed uses of the tax revenue by project or special use. The plan must also include the approximate cost or expense allocation for each spending category, project or special use.

Net Tourist Development Tax Revenue (24 Months After Levying Tax)

The anticipated net revenue for the twenty-four (24) month period beginning on the date of the levy is sixty thousand (\$60,000).

Taxing District

The Tourist Development Tax District is Gadsden County, Florida.

Spending Allocations

Effective November 2008, the Gadsden County Tourist Development Council revises its previous allocations and adopts the following allocations, in priority order, for purposes of promoting tourism throughout the County.

- Marketing/Advertising—60%
- Grants/Special Events—30%
- Administration—10%

The allocations for these elements shall be limited to the percentages listed, and in no case, shall the total of all budgeted allocations for these categories exceed 100 percent (100%) of the annual estimated revenue budget as reviewed by the TDC and approved by the Gadsden County Board of County Commissioners.

It is the intent of the TDC and the Gadsden County Board of County Commissioners that any excess funds accumulated from previous years and maintained in the Reserve for Fund Balance/Contingency, be used for promoting tourism, unanticipated events, activities that market the County and have a substantial impact to attract tourists. Ten percent (10%) of each annual TDC budget shall be placed in reserves for contingency and not recommended for expenditure by the TDC.

Administration

The Gadsden County Board of County Commissioners (BOCC) may appoint County employees and staff as it may deem necessary to accomplish the administrative work of the Tourist Development Council. The Board of County Commissioners may also contract with outside agencies to perform administrative services for the Tourist Development Council. Expenditures for administration shall not exceed ten percent (10%) of the approved annual budget of the Council.

Administration duties and responsibilities include, but are not limited to the following:

- Ensure all TDC activities and programs comply with state and local statutes and ordinances.
- Direct, coordinate and monitor TDC activities undertaken by grantees.
- Monitor the performance of all grantees and those under contract with the TDC.
- Coordinate with the County's Budgeting Office in developing and maintaining the TDC's annual budget.
- Monitor all revenues and expenditures within the approved spending allocations and process payables.
- Prepare agenda items and present recommendations for approval to the Gadsden County Board of County Commissioners for approval.
- Monitor TDC member appointments and reappointments to ensure compliance with Florida Statutes.
- Work with local organizations, convention bureaus, state and local tourist agencies, local governments and other interested tourism partners, to effectively communicate TDC programs to the public and convey the importance of increased tourism to the local economy.
- Perform other duties and responsibilities as assigned by the TDC.

Marketing/Advertising

Funds allocated under this spending category will be for the purpose of directly marketing an activity or event. Funds under this category may also be used for the TDC to market TDC activities via the website, newspapers, print media, magazines, billboards and other media outlet that directly promote Gadsden County and attract tourist to visit and stay overnight in the County. The direct marketing/advertising component includes the development of creative images of Gadsden County that represent a theme or slogan to directly promote the County. The TDC may recommend the BOCC contract with advertising agencies or creative design firms to develop the Gadsden County tourism image.

The TDC may also co-sponsor major events or partner with other organizations to create activities that attract large numbers of tourists to Gadsden County. These funds may also be used to assist in marketing events for activities that have a high impact, but may not result in many overnight stays.

Expenditures for marketing shall not exceed sixty percent (60%) of the approved annual budget of the Council.

Grants/Special Events

The Gadsden County Tourist Development Council allocates a portion of the tourist development tax revenue for grants for events that further the purposes of the TDC by promoting tourism. Grant applications will be accepted from organizations that sponsor and promote tourism activities within Gadsden County, bring substantial numbers of tourists/visitors to the County and promote overnight bed stays within the County. **TDC funds must be matched with other funding sources and must not be the sole source of income.** Expenditures for grants/special events shall not exceed thirty percent (30%) of the approved annual budget of the Council.

- Two grant cycles are held each year: **January and July**, however, if necessary, the TDC may open additional cycles. Funding allocated for grants are limited and are based upon the amount of tourist development tax collected on an annual basis.
- NOTE: All materials/documentation submitted with the grant application will become a matter of public record, open to inspection by any citizen of the State of Florida subject to Chapter 119, Florida Statutes.

Grant Categories

The objective of the TDC is to enhance and promote the tourism industry, thereby enhancing the overall economy of Gadsden County through activities that meet the following criteria:

- Attract tourist or visitors to Gadsden County;
- Increase the frequency of visits of tourists to Gadsden County;
- Increase the length of stay of tourists or visitors;
- Increase the number of room nights, thereby increasing tourist development tax revenues; and,
- Conform to State Statutes/County Ordinances.

Grants are available in three (3) categories. The amount awarded is based upon the estimated number of room nights (overnight stays) as a result of the event. To the best of their ability, applicants will be required to track this information, which may be subject to verification by the TDC. Applications that do not conform to these guidelines and definitions will be noted and taken into consideration for future funding requests. Funding limits are subject to review by the TDC and approval by the Board of County Commissioners.

1. **SPONSORSHIPS**—Major events held in the county by non-profit organizations, municipalities, or corporate entities that attract a substantial number of visitors or tourists into Gadsden County. Examples include: Statewide, national or international events or concerts. Applicants are strongly encouraged to ensure a large majority of the tourists **stay overnight** in the County.

2. **SPECIAL EVENTS**—One, two or multi-day events sponsored by non-profit organizations, municipalities or corporate entities, which are open to the public such as festivals, chili-cook offs, community activities, art shows, river/boat races and historical events. Applicants are strongly encouraged to ensure a large majority of the tourists **stay overnight** in the County.
3. **SPORTING EVENTS**—One, two or multi-day organized tournaments and events held within the county, that attract a large number of participants and spectators from outside the county. This includes, but is not limited to regional and state boxing, baseball or wrestling tournaments. Applicants are strongly encouraged to ensure a large majority of the tourists **stay overnight** in the County.

Eligible Use of Funds

The following are examples of how tourist development funds **may** be used to promote tourism in the county:

- a. Promotional expenses in conjunction with an event to increase the awareness of Gadsden County outside this area. All printed promotional or related material **must** contain the following **"Funded in part by the Gadsden County Tourist Development Council."**
- b. Out-of-county advertising and publicity of an event to increase participation, attendance and awareness. All printed promotional or related material **must** contain the following: **"Funded in part by the Gadsden County Tourist Development Council."**

Ineligible Use of Funds

The following are examples of how tourist development funds **may not** be used:

- a. Annual operating expenditures not directly related to the project or event.
- b. Legal, medical, engineering, accounting, auditing, planning feasibility studies or other consulting services.
- c. Salaries or supplements to salaries for existing or future staff, or employment of personnel not directly related to the project or event.
- d. Real property or capital improvements to privately owned facilities.
- e. Tangible personal property including but not limited to office furnishings or equipment, permanent collections, or individual pieces of art.
- f. Interest reduction of deficits or loans.
- g. Expenses incurred or obligated prior to or after the grant project period.
- h. Prize money, scholarships, awards, plaques, T-shirts, uniforms or certificates.
- i. Travel not associated directly with project.
- j. Projects which are restricted to private or exclusive participation.
- k. Private entertainment, food and beverages.
- l. Expenses to fund other events not funded by the TDC.