

Board of County Commissioners Agenda Request

Date of Meeting: June 2, 2015

Date Submitted: May 14, 2015

To: Honorable Chairperson and Members of the Board

From: Robert M. Presnell, County Administrator
Allara Mills Gutcher, Director of Planning and Community Development

Subject: **Public Hearing:** Adoption of Ordinance 2015 – 008 for the amendment to Chapter 2, Administration, Article V, Boards, Commissions and Authorities, Division 3, Tourist Development Council; and Chapter 74, Taxation, Article I, In General, Division 3, Tourist Development Tax, of the Gadsden County Code of Ordinances.

Statement of Issue:

Public hearing to consider the adoption of amendments to Chapter 2 (regarding Boards and Commissions and Authorities) and Chapter 74 (regarding Taxation) of the Gadsden County Code of Ordinances regarding tourism tax collection, the Tourist Development Council (TDC) and reference to the Gadsden County Tourist Development Strategic Plan.

Background:

Florida Statutes Section 125.0104 provides for a local option for the establishment of a tourist development council, and to establish a local option tourist development tax.

On October 15, 2002 the Gadsden County Board of County Commissioners (BOCC) adopted Ordinance 2002-003 which established a two cent tourist development tax in all of Gadsden County if approved by referendum. A referendum was held and the tourist development tax passed in November of 2002.

Analysis:

These amendments are required to support the update of the Gadsden County Tourist Development Strategic Plan, as considered under Ordinance 2015 – 007, and to support statutory legislation pertinent to the Tourist Development Council, §125.0104, Florida Statutes.

The amendment to Chapter 2 provides more clarity to the operation and duties of the TDC, similar to the structure of other code language in Chapter 2, Boards, Commissions, and Authorities regarding other boards and committees of the Board of County Commissioners such as the Planning Commission.

Options:

- Option 1 Adopt Ordinance 2015 - 008 to amend the Gadsden County Code of Ordinances and authorize the Chairperson to sign.
- Option 2 Don't adopt Ordinance 2015 - 008 to amend the Gadsden County Code of Ordinances.
- Option 3 Board Direction

County Administrator's Recommendation:

Option 1

Attachments:

Ordinance 2015 - 008 with Exhibits A and B.
Notice (Legal Advertisement)

ORDINANCE NO. 2015 - 008

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 3 AND CHAPTER 74, ARTICLE I, DIVISION 3 OF THE GADSDEN COUNTY CODE OF ORDINANCES, RELATED TO THE GADSDEN COUNTY TOURIST DEVELOPMENT COUNCIL AND TOURIST DEVELOPMENT TAX, TO PROVIDE FOR CLARITY AND CONSISTENCY WITH SECTION 125.0104, FLORIDA STATUTES; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY CODE, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, by Ordinance Numbers 2002-002 and 2002-003, approved by referendum, the Gadsden County Board of County Commissioners (the "Board") established the Gadsden County Tourist Development Council and the Tourist Development Tax; and

WHEREAS, the Ordinance was codified in the Gadsden County Code of Ordinances and subsequently amended; and

WHEREAS, the sections in the Code of Ordinances related to the Gadsden County Tourist Development Council and Tourist Development Tax must be amended to provide clarity and consistency with Section 125.0104, Florida Statutes;

Now therefore, be it ordained by the Board of County Commissioners of Gadsden County, Florida, that:

Section I. Approval of Amendment to the Ordinance.

These amendments to the Gadsden County Code of Ordinances, as attached hereto as Exhibit A and Exhibit B are hereby adopted and approved.

Section II. Repealer

The adoption of this Ordinance shall not affect the adopted Gadsden County Tourist Development Council Strategic Plan or By-Laws, and shall only revise the Code as set forth in Exhibits A and B. The adoption of this Ordinance shall only repeal and supersede those portions of Ordinance Numbers 2002-002, 2002-003, 2008-035, 2009-035, 2010-004, 2012-006, and 2013-005 which expressly conflict herewith to the extent of such conflict.

Section III. Severability

If any section, subsection, sentence, clause, phrase, or provision of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, the remainder of the Ordinance shall be construed as not having contained said section, subsection, sentence, clause, phrase, or provision, and shall not be affected by such holding.

Section IV: Inclusion into the Code of Ordinances.

This Ordinance shall be codified in the Gadsden County Code of Ordinances as set forth in Exhibit A and Exhibit B.

Section V. Modification.

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the Ordinance adopted by the Board and filed by the Clerk pursuant to Section VI.

Section VI. Effective Date.

This Ordinance shall be effective as provided by law.

DULY PASSED AND ADOPTED by the Board of County Commissioners of Gadsden County, Florida, this 2nd day of June 2015.

BOARD OF COUNTY COMMISSIONERS
GADSDEN COUNTY, FLORIDA

BRENDA HOLT, Chairperson

ATTEST:

NICHOLAS THOMAS,
Clerk of the Circuit Court

APPROVED AS TO FORM FOR THE
RELIANCE OF GADSDEN COUNTY ONLY:

DAVID J. WEISS, County Attorney

**ORDINANCE 2015 - 008
EXHIBIT A**

**CHAPTER 2 - ADMINISTRATION
ARTICLE V. BOARDS, COMMISSIONS AND AUTHORITIES
DIVISION 3 – TOURIST DEVELOPMENT COUNCIL**

~~Sec. 2-201.~~ – Adoption of council.

~~There is hereby adopted, pursuant to F.S. § 125.0104, the Gadsden County Tourist Development Council.~~

~~Sec. 2-202.~~ – The Gadsden County Tourist Development Council.

~~The Gadsden County Tourist Development Council shall be appointed by the Gadsden County Board of Commissioners for a term of two years. The council shall meet and adopt a tourist development plan in accordance with the provisions of F.S. § 125.104(4)(c).~~

~~Secs. 2-203 – 2-220.~~ – Reserved.

Section 2-201. Establishment of Council. There is hereby established, pursuant to F.S. §125.0104, the Gadsden County Tourist Development Council (TDC).

Section 2-202. Council Membership. The Tourist Development Council shall be appointed by the Gadsden County Board of County Commissioners and shall consist of nine members as follows:

- a) The Chairperson of the Board of County Commissioners (BOCC) or any other member of the BOCC as designated by the Chairperson shall serve on the Council.
- b) Two members of the Council shall be elected municipal officials, at least one of whom shall be from the most populous municipality in the county.
- c) Six members of the Council shall be 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.
- d) All members of the county shall be electors of the county and shall be appointed by the Board of County Commissioners in accordance with this section and F.S. §124.0104.
- e) The members of the Council shall serve for staggered terms of four years.
- f) Members of the Council may be reappointed for additional terms.

- g) At the expiration of a term, members may continue to serve until the BOCC makes an appointment.
- h) Any vacancy in membership shall be filled for the unexpired term by the Gadsden County Board of County Commissioners.
- i) The Board of County Commissioners shall have the authority to remove any member for just cause, upon written notification, after due notice and a public hearing. Just cause may include unexcused absences from two meetings during any calendar year, unless excused for medical reasons.
- j) The Council shall elect a Chairperson and Vice-Chairperson during the first regular meeting of each calendar year. The Chairperson may be reappointed by the members of the Council, or may be renewed each year.

Section 2-203. TDC Duties and Responsibilities. The Council hereby established shall make recommendations to the Board of County Commissioners for the effective operation of the uses of the Local Option Tourist Development Tax revenue and may perform such other duties or functions as set forth in § 125.0104, Florida Statutes, the adopted Tourist Development Strategic Plan and Bylaws, and as prescribed by ordinance, resolution, or direction of the governing board.

The Council and the TDC Administrator shall continuously review all expenditures of revenue raised by the tax hereby levied and shall report to the governing body all expenditures of said revenue believed to be unauthorized by the Council, shall review the Council's finding and take such administrative or judicial action as it sees fit to ensure compliance with this article and the provisions of §125.0104. Florida Statute.

Section 2-204. TDC Meetings and Records. The Gadsden County Tourist Development Council shall meet quarterly, at minimum. All meetings shall be open to the public and shall abide by Florida's Sunshine Law. All records of the Council meetings shall be public. All meetings of the Council shall be conducted in accordance with the Roberts Rules of Order.

Section 2-205. Voting.

- a) Five members of the Council in attendance shall constitute a quorum. In attendance shall include in person, via telephone, or via video conferencing.
- b) A majority vote of those present shall be binding.
- c) When there is a conflict of interest, such member shall abstain from voting and publicly state the reason for abstaining. Said votes shall be duly recorded.

Section 2-206. Conflicts of Interest. No TDC member shall apply for funding from the Local Option Tax collected, or gain direct benefit under any spending category outlined in the Tourist Development Strategic Plan. Members shall not submit application for funding or coordinate an event on behalf of any organization for which the member is affiliated with while serving as a member.

Section 2-207. Tourist Development Plan.

- a) The Gadsden County Tourist Development Strategic Plan is adopted pursuant to and in accordance with § 125.0104, F.S.
- b) The tax revenues received pursuant to §125.0104, F.S. shall be used in accordance with §125.0104, F.S. and the adopted Gadsden County Tourist Development Strategic Plan.
- c) The Plan may be amended pursuant to F.S. §125.0104.

Section 2-208. Budget and Finance. All Local Option Tax funds collected and returned to the county shall be distributed according to §125.0104, Florida Statutes. In addition:

- a) Prior to July of each year, the TDC Administrator, after consideration and recommendation by the TDC, shall forward a budget for approval to the Board of County Commissioners.
- b) The TDC annual budget must further and support the adopted Strategic Plan.
- c) The TDC is authorized to expend up to \$5,000 without specific approval from the Board of County Commissioners as long as the funds are available in the budget approved by the BOCC and the expenditure is designed to increase tourist-related business activities, where “tourist” means a person who participates in trade or recreation activities outside the county of his or her permanent residence or who rents or leases transient accommodations as described in §125.0104(3)(a).

Section 2-209. Representation of County Tourism. No business entity, other than a county tourism promotion agency, within the boundaries of Gadsden County, Florida, shall use the names as specified in §125.0104(9)(e), Florida Statutes, including “visitor information centers” when representing itself to the public as an entity representing a tourism interest of the county.

Being a county levying the Local Option Tourist Development Tax, the Tourist Development Council is authorized and empowered to represent themselves to the public as convention and visitors bureau representatives, vacation bureaus, county tourism promotions agencies, or visitor information centers.

**ORDINANCE 2015 – 008
EXHIBIT B**

**Chapter 74 - TAXATION
ARTICLE I. IN GENERAL
DIVISION 3. TOURIST DEVELOPMENT TAX**

~~Sec. 74-81. – Adoption of plan.~~

~~There is hereby adopted, pursuant to F.S. § 125.0104, the Gadsden County Tourist Development Plan, a true copy of which is attached to and incorporated into this division as if fully set out herein (the "plan" herein).~~

~~Sec. 74-82. – Levy of tourist development tax.~~

~~Subject to approval of this division by referendum as set forth in F.S. § 125.0104, the board of county commissioners hereby levies a two-cent sales surtax on those transactions described in F.S. § 125.0104 for the purposes expressed herein and in the plan.~~

~~Sec. 74-83. – Use of proceeds.~~

~~The proceeds of the two-cent sales surtax shall be used solely for those purposes authorized in F.S. § 125.0104.~~

~~Sec. 74-84. – Tourist development plan.~~

~~The tax revenues received pursuant to this section and F.S. § 125.0104, 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 section [Exhibit A is on file with the county].~~

~~Sec. 74-85. – Tourist development strategic plan.~~

~~The tax revenues received pursuant to this section and F.S. ch. 125.0104, shall be used to fund the newly adopted Gadsden County Tourist Development Strategic Plan (2010), and adhere to by-laws which is attached hereto as exhibit A-1 (voting procedures) and which is hereby approved and incorporated into this section.~~

Section 74-81. Local Option Tourist Development Tax; tax levied; collection; remittance.

- a) By ordinance approved by referendum pursuant to §125.0104, F.S., the Board of County Commissioners hereby levies the Local Option Tourist Development Tax at the rate of two percent of each dollar and major fraction of each dollar of the total consideration charged for amount collected for the lease or rental of any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, apartment motel, rooming house, recreational vehicle park, condominium, condominium hotel, timeshare or campground 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 Chapter 212, F.S.
- b) The tax shall be collected throughout the jurisdictional boundary of Gadsden County, including all incorporated and unincorporated areas.
- c) The proceeds of the surtax shall be collected from 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, recreational vehicle park, condominium, condominium hotel, timeshare or campground 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 Chapter 212, F.S.
- d) The Local Option Tourist Development Tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees, and the considerations for the rental or lease of property.
- e) The tax shall be collected on the last day of occupancy from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental.
- f) The person or agency collecting the tax shall remit the tax to the Department of Revenue at the time and in the manner provided in F.S. §125.0104.

Section 74-82. Failure to charge or collect tax. 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 §775.082, §775.083 or §772.084, Florida Statutes.

Section 74-83. Use of proceeds. The proceeds of the Local Option Tourist Development Tax shall be used solely for those purposes authorized in F.S. §125.0104(5).

Section 74-84. Tourist development plan. In addition to those purposes in Section 74-83, the tax revenues received pursuant to this section and F.S. §125.0104, shall be used in accordance with the adopted Gadsden County Tourist Development Strategic Plan.

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EXHIBIT A**

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~~Sec. 74-83. – Use of proceeds.~~

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~~Sec. 74-84. – Tourist development plan.~~

~~The tax revenues received pursuant to this section and F.S. § 125.0104, 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 section [Exhibit A is on file with the county].~~

~~Sec. 74-85. – Tourist development strategic plan.~~

~~The tax revenues received pursuant to this section and F.S. ch. 125.0104, shall be used to fund the newly adopted Gadsden County Tourist Development Strategic Plan (2010), and adhere to by-laws which is attached hereto as exhibit A-1 (voting procedures) and which is hereby approved and incorporated into this section.~~

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- b) The tax shall be collected throughout the jurisdictional boundary of Gadsden County, including all incorporated and unincorporated areas.
- c) The proceeds of the surtax shall be collected from 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, recreational vehicle park, condominium, condominium hotel, timeshare or campground 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 Chapter 212, F.S.
- d) The Local Option Tourist Development Tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees, and the considerations for the rental or lease of property.
- e) The tax shall be collected on the last day of occupancy from the lessee, tenant or customer at the time of payment of the consideration for such lease or rental.
- f) The person or agency collecting the tax shall remit the tax to the Department of Revenue at the time and in the manner provided in F.S. §125.0104.

Section 74-82. Failure to charge or collect tax. 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 §775.082, §775.083 or §772.084, Florida Statutes.

Section 74-83. Use of proceeds. The proceeds of the Local Option Tourist Development Tax shall be used solely for those purposes authorized in F.S. §125.0104(5).

Section 74-84. Tourist development plan. In addition to those purposes in Section 74-83, the tax revenues received pursuant to this section and F.S. §125.0104, shall be used in accordance with the adopted Gadsden County Tourist Development Strategic Plan.

NOTICE OF INTENT

NOTICE IS HEREBY GIVEN to all concerned that the Board of County Commissioners (BOCC) of Gadsden County, Florida, intends at its regularly scheduled meeting on the 2nd day of June 2015, at 6:00 P.M. at the Edward J. Butler Governmental Complex Building, 9 East Jefferson Street, Quincy, Florida, to consider enactment of the following ordinances:

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING THE TOURIST DEVELOPMENT PLAN TO PROVIDE FOR ANTICIPATED NET TOURIST DEVELOPMENT TAX REVENUE, THE TAXING DISTRICT IN WHICH THE TAX IS COLLECTED, AND PROPOSED USES AND ALLOCATIONS FOR THE USE OF THE TAX REVENUE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

AND

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF GADSDEN COUNTY, FLORIDA, AMENDING CHAPTER 2, ARTICLE V, DIVISION 3 AND CHAPTER 74, ARTICLE I, DIVISION 3 OF THE GADSDEN COUNTY CODE OF ORDINANCES, RELATED TO THE GADSDEN COUNTY TOURIST DEVELOPMENT COUNCIL AND TOURIST DEVELOPMENT TAX, TO PROVIDE FOR CLARITY AND CONSISTENCY WITH SECTION 125.0104, FLORIDA STATUTES; PROVIDING FOR REPEAL, SEVERABILITY, INCLUSION IN THE GADSDEN COUNTY CODE, AND MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

INTERESTED PARTIES MAY APPEAR AT THE MEETING AND BE HEARD WITH RESPECT TO THE PROPOSED ORDINANCES. IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE BOARD OF COUNTY COMMISSIONERS WITH RESPECT TO THESE MATTERS, THEY WILL NEED A RECORD OF PROCEEDING, AND FOR SUCH PURPOSE, THEY MAY NEED TO ASSURE THAT A VERBATIM RECORDING OF THE PROCEEDING IS MADE, WHICH RECORD INCLUDES TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

In accordance with the Americans with Disabilities Act, persons needing assistance in obtaining any information from the County or attending the public hearing should contact the County by communication with the Community Development Administration Office, at (850) 875-8659 at least 48 hours prior to the hearing.

The proposed ordinances are available for public inspection at the Office of the Clerk, Gadsden County Courthouse, 10 E. Jefferson Street, Quincy, Florida.

Published one time

May 21, 2015

- Gadsden Times
- Havana Herald
- Twin City New