

CHAPTER 210. - TOURIST DEVELOPMENT TAX

<u>Sec. 210.01.</u>	Taxing district and levy.
<u>Sec. 210.02.</u>	Tourist development plan.
<u>Sec. 210.03.</u>	Authorized uses of revenue.
<u>Sec. 210.04.</u>	Local administration of tourist development tax.

Section 210.01. - Taxing district and levy.

- (a) There are hereby created two (2) taxing districts in which the tourist development tax is imposed. One taxing district encompasses the geographical boundaries of the City of Vero Beach. The second taxing district encompasses the remainder of geographical boundaries of Indian River County.
- (b) There is hereby adopted and imposed a two (2) percent tourist development tax in accordance with F.S. § 125.0104, on the exercise within each of the taxing districts herein created of the taxable privilege of renting, leasing or letting, for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, rooming house, mobile home park, recreational vehicle park, camping space or condominium for a term of six (6) months or less.
- (c) There is hereby adopted and imposed an additional one (1) percent tourist development tax in accordance with F.S. § 125.0104(3)(d), on the exercise within each of the taxing districts of the taxable privilege of renting, leasing, or letting for a consideration any living quarters or accommodations in any hotel, apartment hotel, motel, rooming house, mobile home park, recreational vehicle park, camping space or condominium for a term of six (6) months or less. Said additional tax shall be for the purpose of funding those authorized uses of tourist development tax revenue as set out in section 210.03(a)(4) of this ordinance.
- (d) There is hereby adopted and imposed an additional one (1) percent tourist development tax in accordance with F.S. § 125.0104(3)(l), on the exercise within each of the taxing districts of the taxable privilege of renting, leasing, or letting for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, rooming house, mobile home park, recreational vehicle park, camping

space or condominium for a term of six (6) months or less. Said additional tax shall be for the purpose of funding those authorized uses of tourist development tax revenue as set out in section 210.03(a)(2) and section 210.03(a)(6) of this chapter.

(Ord. No. 92-26, § 5, 7-14-92; Ord. No. 93-27, § 1, 7-20-93; Ord. No. 2000-029, § 1, 9-7-00; Ord. No. 2019-004, § 2, 1-15-19)

Section 210.02. - Tourist development plan.

There are hereby adopted the plans for tourist development for each district created by the tourist development council with regard to the specific revenues and expenditures for the first twenty-four (24) months following the levy of the tourist development tax. The plans are attached hereto and by reference are hereby incorporated as if fully set forth herein.

(Ord. No. 92-26, § 5, 7-14-92)

Section 210.03. - Authorized uses of revenue.

- (a) All revenues received pursuant to this article shall be used for the following purposes only:
- (1) To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly owned and operated convention center, sport stadium, sports arena, coliseum or auditorium within the boundaries of the county or subcounty special taxing district. However, these purposes may be implemented through services, contracts and leases with persons who maintain and operate adequate existing facilities;
 - (2) To promote and advertise tourism in the State of Florida and nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the activity, service, venue, or event must have as one of its main purposes the attraction of tourists as evidenced by the promotion of the activity, service, venue, or event to tourists;
 - (3) To fund convention bureaus, tourist bureau, tourist information centers and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county;
 - (4) To finance beach improvement, maintenance, renourishment restoration and erosion control, including shoreline protection, enhancement, cleanup, restoration of inland lakes and rivers to which there is public access;
 - (5) Until such time as Indian River County reaches a population of five hundred thousand (500,000) based on the most recent population estimated prepared pursuant to the provisions of F.S. § 186.901, as in effect on July 1st of each year, tax revenues received pursuant to this article may also be used to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more museums, zoological parks, fishing piers or nature centers which are publicly owned and operated or owned by not-for-profit organizations are open to the public.
 - (6) Pay the debt service on bonds issued to finance the construction, reconstruction, or renovation of a professional sports franchise facility, or the acquisition, construction, reconstruction, or renovation of a retained spring training franchise facility, either publicly owned and operated, or publicly owned

and operated by the owner of a professional sports franchise or other lessee with sufficient expertise or financial capability to operate such facility, and to pay the planning and design costs incurred prior to the issuance of such bonds.

- (b) Up to fifty (50) percent of the revenues to be derived from the tourist development tax levied pursuant to sections 210.01(b) and (c) of this chapter shall be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in section (a)(4) of this section. Up to one-half (½) of the remaining revenue derived from the tourist development tax levied pursuant to sections 210.01(b) and (c) of this chapter may be pledged to secure and liquidate revenue bonds issued by the county for the purposes set forth in section (a)(1).

(Ord. No. 92-26, § 5, 7-14-92; Ord. No. 93-27, § 2, 7-20-93; Ord. No. 2000-029, § 1, 9-7-00; Ord. No. 2019-004, § 2, 1-15-19)

Section 210.04. - Local administration of tourist development tax.

- (a) Any person, firm or corporation receiving consideration for rental or lease (herein referred to as the "dealer") for any period subsequent to October 1, 2000, shall receive, account for, and remit the tax to the Indian River County Clerk of the Circuit Court.
- (b) Initial collection of the tax shall be made in the same manner as the tax imposed under Chapter 212, Florida Statutes.
- (c) The Indian River County Clerk of the Circuit Court shall be responsible for the collection of the tax from the dealer and administration of the tax.
- (d) 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, shall apply to and be binding upon all persons who are subject to the provisions of this chapter; provided, however, that the Indian River County Clerk of the Circuit Court 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 one hundred dollars (\$100.00).
- (e) The Indian River County Clerk of the Circuit Court shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purposes of the section.
- (f) The Indian River County Clerk of the Circuit Court shall perform the enforcement functions associated with the collection and remission of this tax.
- (g) A total of three (3) percent of the total tourist development tax collected shall be retained by the Indian River County Clerk of the Circuit Court for costs of administration.
- (h) The taxes imposed by this section shall become county funds at the moment of collection and shall for each month be due to the Indian River County Clerk of the Circuit Court on the first day and is delinquent on the twenty-first day of the month following, unless otherwise provided for by subsection (d). Collections received by the Indian River County Clerk of the Circuit Court from the tax, less costs of administration of the local collection, shall be paid and returned, on a monthly basis, to Indian River County, Florida, for use by the county in accordance with the provisions of this chapter and shall be placed in the "Indian River County Tourist Development Trust Fund."

- (i) The Indian River County Clerk of the Circuit Court assumes all responsibility for collecting and enforcing pay current and delinquent tourist development taxes. The clerk of the circuit court adopts any and all powers and authority granted to the State of Florida in Section 125.0104 and Chapter 212, Florida Statutes, and as further incorporated therein to determine the amount of the tax, penalties and interest to be paid by each dealer and enforce payment of such tax, penalties, and interest by, but not limited to, distress warrants, writ of garnish and criminal penalties as provided in Chapter 212, Florida Statutes. In addition to criminal sanctions, the clerk is empowered, and it shall be its duty, when any tax becomes delinquent or is otherwise in jeopardy under this section, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalty and cost of collection, directed to all and singular the sheriffs of the state, and shall record the warrant in the 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. The clerk may issue a tax execution to enforce the collection of taxes imposed by this section and deliver it to the sheriff. The sheriff shall thereupon 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. The clerk may also have a writ of garnishment to subject an 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 payment of the tax due. Upon payment of the execution, warrant, judgment or garnishment, the clerk shall remove the lien of record within thirty (30) days.
- (j) As specifically provided by Section 212.12, Florida Statutes, Penalties for Non-Compliance, when any person, firm, or corporation required hereunder to make any return or to pay the tax imposed, fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein and by the laws of this state in respect to such taxes, a specific penalty shall be added to the tax in the amount of ten (10) percent of any unpaid tax, if the failure is for not more than thirty (30) days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of fifty (50) percent, in the aggregate, of any unpaid tax. In no event may the penalty be less than ten dollars (\$10.00) for failure to timely file a tax return required.
- (k) Interest earned on the tax collections received by the Indian River County Clerk of the Circuit Court shall be remitted by the clerk of the circuit court on a quarterly basis to be placed in the Indian River County Tourist Development Tax Fund.
- (l) The Clerk of the Circuit Court of Indian River County or his/her designated agent shall perform the audit functions associated with this tax, including, without limitation, the following:
- (1) For the purpose of enforcing this part, the clerk of the circuit court is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all persons taxable hereunder, or other persons charged with the duty to report or pay a tax under this chapter, in order to determine whether they are collecting the tax or otherwise complying with this chapter. In the event said person refuses to permit such examination of its books records, or other documents by the clerk of the circuit court as aforesaid, such person is guilty of violating the provisions of this chapter and shall be subject to the penalties provided for in Section 125.69, Florida Statutes. The Indian River County Clerk of the Circuit Court shall have the right to proceed in circuit

- court to seek a mandatory injunction or other appropriate remedy to enforce its rights against the offender, as granted by this section, to require an examination of the books and records of such dealer.
- (2) Each person taxable hereunder, shall secure, maintain, and keep for a period of three (3) years a complete record of rooms or other lodging, leased or rented by said persons, together with gross receipts from such sales, and other pertinent records and papers as may be required by the clerk of the circuit court for the reasonable administration of this section; and all such records which are located or maintained in this state shall be open for inspection by the clerk of the circuit court at all reasonable hours at such person's place of business located in Indian River County. Any person who maintains such books and records at a point outside this county must make such books and records available for inspection by the Clerk of the Circuit Court in Indian River County. Any person subject to the provisions of this chapter who violates these provisions shall be subject to the penalties provided for in Section 125.69, Florida Statutes.
- (3) The clerk of the circuit court shall send written notification, at least thirty (30) days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The clerk of the circuit court is not required to give thirty (30) days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.
- a. Such written notification shall contain:
- (i) The appropriate date of which the auditor is scheduled to begin the audit.
- (ii) A reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.
- (iii) Any other request or suggestions the clerk of the circuit court may deem necessary.
- b. 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.
- (m) Any dealer who falls or refuses to charge and collect the tax from the person paying any rental or lease, either by himself or through his agents or employees, is (pursuant to Section 126.0104(8)(a), Florida Statutes), in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 and 775.083, Florida Statutes.
- (n) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or any part of the tax, that he will relieve the person paying the rental of the payment of all or any part of the tax, or that the tax will not be added to the rental or lease consideration or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is (pursuant to Section 125.0104(8)(b), Florida Statutes), guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or 775.083, Florida Statutes.
- (o) As compensation for the keeping of prescribed records and the proper accounting and remitting of taxes, a dealer shall be allowed a dealer's credit in accordance with the provision of Section 212.12(l), Florida Statutes.
- (p) Tax revenues collected hereunder may be used only in accordance with the provision of Section 125.0104, Florida Statutes. Taxes collected by the Indian River County Clerk of the Circuit Court, less costs

of administration identified in subsection (g) of this section shall be remitted on a monthly basis for deposit into the Indian River County Tourist Development Trust Fund.

- (q) The Indian River County Clerk of the Circuit Court shall keep appropriate books, records and accounts of the tourist development tax collections and make quarterly written reports of collections to the Indian River County Tourist Development Council, through the Office of Management and Budget of Indian River County.

(Ord. No. 2000-019, § 1, 7-11-00)