

ORDINANCE NO. 12-35

AN ORDINANCE OF MANATEE COUNTY, FLORIDA REGARDING PUBLIC FINANCE; PROVIDING FOR PURPOSE AND INTENT; PROVIDING FINDINGS; AMENDING SECTION 2-29-27 OF THE MANATEE COUNTY CODE OF ORDINANCES TO AMEND THE COUNTY'S TOURIST DEVELOPMENT PLAN TO AUTHORIZE A ONE-TIME CAPITAL CONTRIBUTION TOWARDS A PUBLIC AUDITORIUM FOR THE MANATEE PLAYERS; AMENDING SECTIONS 2-29-21, 2-29-28, 2-29-30.1 & 2-29-30.2 FOR INTERNAL CONSISTENCY; PROVIDING FOR CODIFICATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

DEPARTMENT OF STATE
TALLAHASSEE, FLORIDA

2012 OCT -2 AM 11:07

FILED

WHEREAS, Article VII of the Constitution of the State of Florida and Section 125.0104, Florida Statutes (collectively, the "Act") authorize the County to levy and collect a tourist development tax for the purpose of promoting tourism and paying the cost of construction and/or operation of certain capital facilities, and other public uses related to the promotion of tourism; and

WHEREAS, Article II of Chapter 2-29 of the Manatee County Code of Ordinances (the "Code"), provides for the County to levy and collect a tourist development tax for such purposes; and

WHEREAS, the Act provides that the County's Tourist Development Plan may not be substantially amended except by an Ordinance of Manatee County, enacted by an affirmative vote of the majority, plus one (1) additional member of the Board of County Commissioners.

BE IT ORDAINED by the Board of County Commissioners of Manatee County, Florida:

Section 1. Purpose and Intent. This Ordinance is enacted to carry out the purpose and intent of, and exercise the authority set forth in, Article VII of the Florida Constitution and Section 125.0104, Florida Statutes, as amended.

Section 2. Findings. The Board of County Commissioners relies upon the following findings in the adoption of this Ordinance:

1. The findings contained in the recitals above are true and correct.
2. The powers conferred by this Ordinance are for public uses and purposes for which public money may be expended, and are hereby declared as a matter of

legislative determination to be necessary for the public health, safety and welfare, and specifically for the promotion of tourism within the County.

3. Article II of Chapter 2-29 of the Code sets forth procedures for the levy and collection of the tourist development tax.
4. It is in the interest of the public health, safety and welfare to amend Section 2-29-27 of the Code as set forth in this Ordinance, to amend the County's Tourist Development Plan to authorize a one-time capital contribution for an auditorium for The Manatee Players.
5. On June 18, 2012, the Manatee County Tourist Development Council reviewed and, by majority vote, recommended adoption of the change to the County's Tourist Development Plan set forth herein.
6. On September 25, 2012, the Board of County Commissioners, by a vote of at least a majority plus one, adopted this Ordinance amending Section 2-29-27 of the Code, providing for the amendment to the County's Tourist Development Plan set forth herein.

Section 3. Amendment of Section 2-29-27 of the Code. Section 2-29-27 of the Code is hereby amended as set forth in Exhibit "A" to this Ordinance.

Section 4. Amendment of Sections 2-29-21, 2-29-28, 2-29-30.1 & 2-29-30.2 of the Code. Sections 2-29-21, 2-29-28, 2-29-30.1 & 2-29-30.2 of the Code are hereby amended as set forth in Exhibit "B" to this Ordinance.

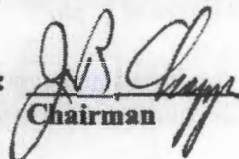
Section 5. Codification. The publisher of the County's Code, the Municipal Code Corporation, is directed to incorporate the amendments in Sections 3 and 4 of this Ordinance into the Code.

Section 6. Severability. If any section, sentence, clause, or other provision of this Ordinance shall be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not be construed as to render invalid or unconstitutional the remaining sections, sentences, clauses, or provisions of this Ordinance.

Section 7. Effective Date. This Ordinance shall become effective as provided by law.

PASSED AND DULY ADOPTED, with a quorum present and voting, by the Board of County Commissioners of Manatee County, Florida, this the 25th day of September, 2012.

**BOARD OF COUNTY COMMISSIONERS OF
MANATEE COUNTY, FLORIDA**

By:  _____
Chairman

ATTEST: R.B. SHORE
Clerk of the Circuit Court


By:  _____
Deputy Clerk



Exhibit "A"
Amendment to Section 2-29-27
Tourist Development Tax
Manatee County Code of Ordinances
(underlined text to be added, strike-through text to be deleted)

Sec. 2-29-27. Tourist development plan.

All proceeds of the tax levied pursuant to sections 2-29-21(a), (g) and (h) shall be used to fund the County's Tourist Development Plan, which is hereby adopted and set forth as follows:

*MANATEE COUNTY TOURIST DEVELOPMENT PLAN
AMENDED AND RESTATED
NOVEMBER, 2011*

Pursuant to Section 125.0104, Florida Statutes (the "Act"), Manatee County levies its tourist development tax at the aggregate rate of five cents per dollar. The plan set forth below constitutes the County's Tourist Development Plan for purposes of Section 125.0104(4)(d) of the Act.

- A. **Projected Revenues:** As of the date of the most recent amendment to the Plan (November, 2011), the County expects during the next two fiscal years to derive a total of six million seven hundred and sixty thousand dollars (\$6,760,000) per fiscal year in proceeds of the tax. Pursuant to Section ~~2-29-26(f)~~ 2-29-21(f), the proceeds of the third cent of the tax, expected during the next two fiscal years to amount to one million three hundred and fifty two thousand dollars (\$1,352,000) per fiscal year have been specifically dedicated to beach renourishment projects and are not to be used to fund this Plan. The remaining tax proceeds, expected during the next two fiscal years to amount to five million four hundred and eight thousand dollars (\$5,408,000) per year (hereinafter referred to as the "projected revenues") shall be used as set forth below.
- B. As required by the Act, the following is a list, in order of priority, of the uses of the available revenues from the tourist development tax, including the approximate cost or expense allocation for each specific project or special use:
 - I. **Convention and Visitors Bureau:** Operation costs of the Bradenton Area Convention and Visitors Bureau, a tourism promotion agency within the meaning of the Act, which shall include but not be limited to rent, personnel, administration, and supplies, equipment, and building improvements, in an initial amount not to exceed one million dollars (\$1,000,000) in each fiscal year.
 - II. **Advertising and Promoting Tourism:** Costs of advertising and promoting tourism within the meaning of the Act, either directly or through contractors or subcontractors, in an initial amount not to exceed three million dollars (\$3,000,000) in each fiscal year.

- III. Manatee Convention Center: Costs of debt service on bonds issued, and/or debt incurred, to finance the construction, reconstruction, or renovation, and costs of operation and maintenance of, and cash-funded capital outlay for, one or more publicly owned convention centers, in an initial amount not to exceed one million two hundred and fifty thousand dollars (\$1,250,000) in each fiscal year.
 - IV. City of Bradenton, Pittsburgh Pirates Spring Training Facility: Commencing October 1, 2011 and terminating September 30, 2032, the cost of debt service on bonds issued to finance the acquisition, construction, reconstruction or renovation of a spring training facility for the Pittsburgh Pirates, a retained spring training franchise facility within the meaning of the Act, in an amount not to exceed four hundred thousand dollars (\$400,000) in each fiscal year.
 - V. South Florida Museum: Payment to the South Florida Museum to fund the costs of care, feeding and maintenance associated with the addition of a second manatee (other than the resident manatee) at the South Florida Museum, in an amount not to exceed thirty thousand dollars (\$30,000) in each fiscal year.
 - VI. The Manatee Players Auditorium: Payment to The Manatee Players of a one-time capital contribution for cost of the original construction on publicly owned land of an auditorium owned and operated by a not-for-profit organization and open to the public for theatrical performances in Downtown Bradenton, incurred on or after August 15, 2012, in an amount not to exceed two hundred and fifty thousand dollars (\$250,000), subject to The Manatee Players providing matching funds.
 - ~~VII.~~ VI. Emergency Marketing Fund: Such remaining amounts as are necessary to maintain an Emergency Marketing Fund of \$1,000,000.00 for "Act of God" occurrences.
 - ~~VIII.~~ VII. Surplus Revenues; Reserve for Contingency: Such remaining amounts (including unspent balances carried forward from prior fiscal years) after all above priorities have been fully funded to be allocated as additional funds for the uses set forth in priorities I, II and III (over and above the initial revenue limitations set forth therein), and to fund reserves in the Tourist Development Tax Trust Fund, as the Board of County Commissioners shall determine in its fiscal discretion.
- C. The specific allocation of funds for expenditures authorized by this Plan shall be included in the County's official budget adopted prior to the commencement of each fiscal year. Changes in such amounts included in the county budget for authorized uses under this Plan shall be brought to the Tourist Development Council for review and recommendation prior to any change, which shall be authorized by the Board of County Commissioners in the manner provided by law for amending the County's budget. The allocation of Tourist Development Tax Revenues established under this Plan or any budget, resolution or action of the Board of County Commissioners shall not constitute a

right, entitlement or benefit to any individual or entity but shall remain subject to the authority of the Board of County Commissioners to amend this Plan and the County's budget. Funding authorized under this Plan shall be disbursed in accordance with such rules, procedure and such agreements as may be adopted, approved and/or authorized by the Board of County Commissioners.

- D. All uses of tourist development tax proceeds governed by this Plan shall be subject to the requirements of, and carried out in accordance with, the Act. This Tourist Development Plan was approved by the Manatee County Tourist Development Council, by majority vote, on November 14, 2011, prior to adoption by ordinance by the Board of County Commissioners by a vote of at least a majority plus one, on November 21, 2011, as required by the Act.

Exhibit "B"
Amendments to Sections 2-29-21, 2-29-28, 2-29-30.1 & 2-29-30.2
Tourist Development Tax
Manatee County Code of Ordinances
(underlined text to be added, strike-through text to be deleted)

Sec. 2-29-21. Levy and collection of tax.

(a) Pursuant to Section ~~125.0104(b)~~125.0104(3)(b), Florida Statutes, there is hereby levied and imposed and set a tourist development tax at a rate of two (2) per cent of each dollar and major fraction of each dollar of the total consideration 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, recreation vehicle park, condominium or timeshare resort for a term of six (6) 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, Florida Statutes, as amended. 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. The proceeds of the tax levied pursuant to this paragraph shall be used as provided in Section 125.0104, Florida Statutes (hereinafter referred to as the "Act"), and as may be further limited pursuant to the tourist development plan set forth in section ~~2-29-25~~ 2-29-27 of this article.

(b) Pursuant to Section 125.0104(d) of the Act, in addition to the two (2) per cent imposed pursuant to paragraph (a), there is hereby levied, imposed and set, an additional one (1) per cent of each dollar above the tax rate set under paragraph (a). The proceeds of the additional tax levied pursuant to this paragraph (f) shall not be subject to the requirements of the Tourist Development Plan set forth in section ~~2-29-25~~ 2-29-27 of this article, and shall be used as follows:

....

(f) Pursuant to Section ~~125.0104(b)~~125.0104(3)(b) of the Act, in addition to the two (2) per cent imposed pursuant to paragraph (a), there is hereby levied, imposed and set, an additional one (1) per cent of each dollar above the tax rate set under paragraph (a). The proceeds of the additional tax levied pursuant to this paragraph (f) shall not be subject to the requirements of the Tourist Development Plan set forth in section 2-29-25 of this article, and shall be used as follows:

....

(2) Except as provided in ~~V(3)~~ below, all revenues accrued as of October 1, 1990, and all future proceeds of the additional tax levied pursuant to this paragraph (f) shall be held in a separate subaccount in the trust fund established pursuant to section 2-29-26, such subaccount to be designated as the Beach Renourishment Fund, and shall be

used only to finance beach restoration and erosion management projects, beach maintenance, and other beach improvements as defined in 125.0104(5)(a)4 of the Act, either directly or through the pledging or use of such proceeds to pay bonded indebtedness pursuant to sections 2-29-30 & 31 of this article and applicable law.

....

- (g) Pursuant to Section ~~125.0104(4)~~ 125.0104(3)(l) of the Act, in addition to the three (3) per cent imposed pursuant to paragraphs (a) and (f), there is hereby levied, imposed and set, an additional one (1) per cent of each dollar above the tax rate set under paragraph (a). The proceeds of the additional tax levied pursuant to this paragraph shall be used as provided in the Act, and as may be further limited pursuant to the tourist development plan set forth in section 2-29-27 of this article.
- (h) Pursuant to Section ~~125.0104(a)~~ 125.0104(3)(n) of the Act, in addition to the four (4) per cent imposed pursuant to paragraphs (a), (f) and (g), there is hereby levied, imposed and set, an additional one (1) per cent of each dollar above the tax rate set under paragraph (a). The proceeds of the additional tax levied pursuant to this paragraph shall be used as provided in the Act, and as may be further limited pursuant to the tourist development plan set forth in section 2-29-27 of this article.

Sec. 2-29-28. Amendment of tourist development plan, rescission of tax.

- (a) In accordance with Section 125.0104(4)(d) of the Act, the tourist development plan set forth in section ~~2-29-25~~ 2-29-27 shall not be substantially amended except by an ordinance of the county enacted by an affirmative vote of a majority plus one additional member of the board of county commissioners.

Sec. ~~2-29-31~~ 2-29-30.1. Revenue bonds, Ad valorem taxes, general revenues not to be pledged.


The full faith and credit of the county shall not be pledged in connection with any bond or bonds issued pursuant to this article, or for the implementation of the tourist development plan. Any bond or bonds issued pursuant to this article shall not be general obligation bonds, nor shall any ad valorem taxes or general revenues of the county be pledged or used to secure or liquidate such bonds.

Sec. ~~2-29-32~~ 2-29-30.2. References to statutes and rules; Use of pronouns.

All references to the Act, other provisions of Florida Statutes, provisions of the Florida Administrative Code, and applicable law are intended to include and reflect any subsequent amendments to such provisions. All pronouns and any variations thereof shall be deemed to refer to the masculine, feminine and neuter, singular or plural, as the identities of the party or parties, personal representatives, subcontractors, successors or assigns may require.

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STATE OF FLORIDA, COUNTY OF MANATEE
This is to certify that the foregoing is a true and correct copy of the documents on file in my office.
Witness my hand and official seal this 28 day of September, 2012
R.B. SHORE
Clerk of Circuit Court
By:  D.C.



FLORIDA DEPARTMENT *of* STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

October 2, 2012

RECEIVED
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BOARD RECORDS

Honorable R. B. "Chips" Shore
Clerk of the Circuit Court
Manatee County
Post Office Box 25400
Bradenton, Florida 34206

Attention: Ms. Pati Kopke, Deputy Clerk

Dear Mr. Shore:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated September 28, 2012 and certified copies of Manatee County Ordinance Nos. 12-30, 12-31, 12-33, 12-35, and PDR-06-63(Z)(G)(R) which were filed in this office on October 2, 2012.

As requested, one date stamped copy of each ordinance is being return for your records.

Sincerely,

Liz Cloud
Program Administrator

LC/elr

Enclosure