

## MEMORANDUM

**Date:** May 3, 2013

**To:** Jack Wert, Director of Tourism  
Collier County Tourism Department

**From:** Teresa Cannon, Deputy Clerk  
Minutes & Records Department

**Re:** **Validated Ordinance 2013-30: Amending the TDC Ordinance**

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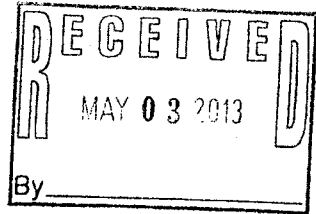
Attached is a copy of the ordinance referenced above (**Item #9B**) approved by the Board of County Commissioners on **April 23, 2013**.

The Minutes & Records Department will hold the second original agreement in the Board's Official Record.

If you have any questions please feel free to contact me at 252-8411.

Thank you.

Attachment



ORDINANCE NO. 2013 - 30

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF COLLIER COUNTY, FLORIDA, AMENDING ORDINANCE NO. 92-60, AS AMENDED, ALSO CITED AS SECTION 126-83 OF THE COLLIER COUNTY CODE OF LAWS AND ORDINANCES, RELATING TO THE LEVY OF A 2% TOURIST DEVELOPMENT TAX, AN ADDITIONAL 1% TAX (3<sup>RD</sup> PERCENT), AND AN ADDITIONAL 1% TAX (4<sup>TH</sup> PERCENT) THROUGHOUT COLLIER COUNTY PURSUANT TO THE LOCAL OPTION TOURIST DEVELOPMENT ACT, SECTION 125.0104, FLORIDA STATUTES, AS AMENDED; BY AMENDING SECTION THREE, "USES OF TAX REVENUES," IN ORDER TO REALLOCATE CERTAIN TOURIST DEVELOPMENT TAX FUNDS AND ELIMINATE THOSE PROVISIONS THAT HAVE EXPIRED AND ARE OF NO FURTHER FORCE AND EFFECT; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

2013 APR 29 AM 11:12

FILED

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

WHEREAS, on August 18, 1992, the Board of County Commissioners (Board) adopted Ordinance No. 92-60, which levied and imposed a 2% tourist and development tax throughout Collier County for the purposes permitted in Section 125.0104, Florida Statutes, as amended; and

WHEREAS, through its adoption of Ordinance No. 95-56 and Ordinance No. 2005-43, the Board levied an additional 3<sup>rd</sup> and 4<sup>th</sup> percent tourist development tax; and

WHEREAS, subsequent amendments to Ordinance No. 92-60, as amended, included Ordinance No. 2009-58, Ordinance No. 2010-44, and Ordinance No. 2012-08 which temporarily reallocated certain Tourist Development Tax funds; and

WHEREAS, the time periods established for these temporary reallocations of Tourist Development Tax funds have expired; and

WHEREAS, the Board, by an extraordinary vote, desires to amend the uses of tax revenue and the tourist development plan in order to redistribute certain Tourist Development Tax funds and eliminate expired provisions that are of no further force and effect; and

WHEREAS, the proposed amendments were presented to and approved by the Collier County Tourist Development Council.

Words Underlined are added; Words ~~Struck-Through~~ are deleted.

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

**SECTION ONE: AMENDMENT TO SECTION THREE OF ORDINANCE NO. 92-60, AS AMENDED.**

Section Three is hereby amended to read as follows:

**SECTION THREE - USES OF TAX REVENUES.**

(a) The tax revenues received pursuant to this division shall be used to fund the County Tourist Development Plan, which is hereby amended as follows:

*Tourist Development Plan*

The two percent tourist development tax was levied throughout Collier County beginning the first day of the second month following approval of this Ordinance by referendum. The tax district includes the entire geographic area of Collier County, Florida. The anticipated revenue for a two percent tourist development tax for all of Collier County over a 24-month period was \$7,000,000.00, less costs of administration.

The additional one percent tourist development tax (3rd percent) was levied throughout the county beginning the first day of January, 1996. A majority of the electors of Collier County voting in a straw referendum election approved the continuation of the additional one percent tourist development tax prior to June 30, 2000, therefore the additional one percent tourist development tax shall continue until terminated by an amendment to this Ordinance. The tax district shall include the entire geographic area of Collier County, Florida.

The additional tourist development tax (4th percent) shall be used to finance tourism promotion as provided herein. The tax district shall include the entire geographic area of Collier County, Florida.

(1) The categories of use of the two percent, one percent (3rd percent) and additional one percent (4th percent) tax revenues by specific project or special use are hereby listed in the order of priority:

**CATEGORY A** To finance beach park facilities or beach improvement, maintenance, renourishment, restoration and erosion control, including pass and inlet maintenance shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as these uses relate to the physical preservation of the beach, shoreline or inland lake or river.

Words Underlined are added; Words ~~Struck Through~~ are deleted.

*Percentage of Net Revenue*

~~50~~ 32.584 percent of the two percent tax and 100 percent of the one percent tax (3rd percent), reduced by the amount required for Category D.

*CATEGORY B*

To promote and advertise county tourism within the State of Florida, nationally and internationally, which encourages tourism to Collier County and to fund convention bureaus, tourist bureaus, tourist information centers and news bureaus as county agencies. If tax revenues are expended for an activity, service, venue or event, the activity, service, venue or event shall 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.

*Percentage of Net Revenue*

~~23.236~~ 43.438 percent of the two percent tax and 100 percent of the additional one percent tax (4th percent)

*CATEGORY C*

To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more County owned or operated museums or municipal owned museums that are owned and operated by not for profit organizations and open to the public.

*Percentage of Net Revenue*

~~26.764~~ 23.978 percent of the two percent tax. ~~This amount may be amended upwardly or downwardly prospectively from the date of the budget amendment approval, provided that the amount of the aggregate allocation per fiscal year budget amendment does not exceed 26.764 percent of the two percent tax.~~

Sub-categories:

C(1): County owned or operated museums: ~~22.0~~ 19.214 percent

C(2): Municipal owned museums and museums owned and operated by not for profit organizations open to the public: 4.764 percent

*CATEGORY D*

To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more fishing piers which are publicly owned and operated.

*Percentage of Net Revenue*

Amount budgeted for this category by the Board of County Commissioners each fiscal year, but not to exceed \$200,000.00. This amount may be amended upwardly or downwardly prospectively from the date of the budget amendment approval, provided that the amount of the aggregate allocation per fiscal year does not exceed \$200,000.00.

It is the intent of this division that the above uses shall be funded separately, but simultaneously in the above percentages regardless of the actual amount of net revenues collected.

~~It is the intent of this division that the above uses shall be funded separately, but simultaneously in the above percentages regardless of the actual amount of net revenues collected.~~

(2) The additional one percent tax revenues (3rd percent) collected pursuant to Section TWO (F) shall be used to finance beach park facilities, beach improvement, maintenance, renourishment, restoration and erosion control including pass and inlet maintenance shoreline protection, enhancement, cleanup or restoration of inland lakes and rivers to which there is public access as these uses relate to the physical preservation of the beach, shoreline or inland lake or river.

(3) The additional one percent tax (4th percent) collected pursuant to Section TWO (G) shall be used entirely to finance tourism promotion including advertising, public relations, promotion, research and fulfillment. It is the intent of the Board of County Commissioners to maintain this new level of tourism promotion dollars in the future.

(4) ~~The Disaster Recover Advertising Fund will continue to be financed from the 23.236% of the 2% tax to maintain a maximum level of \$1 million \$500,000.00. Should the fund fall below \$500,000.00, the fund shall be replenished up to a maximum of \$500,000.00 per fiscal year from the General Fund. At the end of each fiscal year, any remaining funds in the 23.236% of the 2% tax after fulfillment of the above uses in the 23.236% of the 2% tax will be distributed to Category "B" (Marketing and Promotion). It is the intent of the Board of County Commissioners to maintain this new level of tourism promotion dollars in the future.~~

Words Underlined are added; Words ~~Struck Through~~ are deleted.

(4) (5) Administrative costs.

- a. Tourism promotion administrative costs (Fund 194) shall not exceed 32% of the total amount collected each fiscal year for Category "B" revenue. This amount may be amended upwardly or downwardly each budget year provided that the amount of the budget does not exceed 32% of the total Category "B" revenue.
- b. Project Management (Fund 185), Indirect Overhead, and Program Administration in support of Fund 195 (Beaches) and Fund 183 (Beach Park Facilities) shall not exceed 15% of Category "A" revenues. ~~These charges to be split 75% to Fund 195 (Beaches) and 25% to Fund 183 (Beach Park Facilities).~~ This amount may be amended upwardly or downwardly each budget year provided that the amount of the budget does not exceed 15% of Category "A" revenues.

(5) (6) The revenues to be derived from the tourist development tax may be pledged to secure and liquidate revenue bonds in accordance with the provisions of Section 125.0104, Florida Statutes. Such revenue bonds and revenue refunding bonds may be authorized and issued in such principal amounts, with such interest rates and maturity dates, and subject to such other terms, conditions and covenants as the governing board of Collier County shall provide. This paragraph shall be full and complete authority for accomplishing such purposes, but such authority shall be supplemental and additional to, and not in derogation of, any powers now existing or later conferred under law.

(6) (7) The event bonds are issued by Collier County for any of the purposes enumerated by the Tourist Development Plan, the amount of tourist development tax receipts used to pay debt service on such bonds may exceed the percentages provided for the purpose for which such bonds were issued; provided, however, the maximum annual debt service on such bonds, together with any other obligations of Collier County which were issued to finance improvements for the same purpose and which are secured by the tourist development tax, must not exceed the stated percentage of tourist development tax receipts provided in the Tourist Development Plan for such purposes, as calculated as of the date of sale of such bonds. For purposes of performing the calculations described in this paragraph, the amount of tourist development tax receipts shall be assumed to be the amount provided as such in Collier County's immediately preceding annual audit, plus, if the levy of such tax was imposed or increased subsequent to the beginning of the period which was audited, an amount equal to the estimate by the County Manager of the moneys the County would have received if the tax imposition or increase had been in effect during the entire audit period. At or prior to the issuance of bonds the County Manager shall provide a certificate as to the findings required in this paragraph, which certificate shall be conclusive as to all matters provided herein.

Words Underlined are added; Words ~~Struck Through~~ are deleted.

~~(7) The sum of \$1,000,000.00 annually allocated for Category "A" Beach Park Facilities Fund 183 shall be reallocated to Fund 184 to be used for destination marketing for a period of one year from enactment of this amendment, at which time this provision will expire and be of no further force or effect unless further extended by the Board of County Commissioners.~~

~~(8) The sum of \$500,000.00 annually allocated for Catastrophe Reserves from County Fund 195 shall be reallocated to Fund 184 to be used for destination marketing for a period of one year from enactment of this amendment, at which time this provision will expire and be of no further force or effect unless further extended by the Board.~~

~~(9) Five hundred thousand dollars (\$500,000.00) of the Two million dollars (\$2,000,000.00) that is annually allocated for Major Beach Renourishment Reserves from County Fund 195 shall be reallocated to Fund 184 to be used for destination marketing for a period of one year from enactment of this amendment, at which time this provision will expire and be of no further force or effect unless further extended by the Board.~~

~~(10) The sum of \$100,000.00 shall be reallocated from Fund 193 Municipal owned museums and Museums owned and operated by not for profit organizations open to the public, to Fund 198 County owned or operated Museums to be used for a one time payment pursuant to a Category C (2) agreement with Marco Island Historical Society prior to the museum becoming a County owned and operated C (1) museum. This provision will expire and be of no further force or effect upon payment to Marco Island Historical Society.~~

~~(11)~~ (8) The above and foregoing tourist development plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the Board of County Commissioners.

## **SECTION TWO: CONFLICT AND SEVERABILITY.**

In the event this Ordinance conflicts with any other ordinance of Collier County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is 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 portion.

**SECTION THREE: INCLUSION IN THE CODE OF LAWS AND ORDINANCES.**

The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Collier County, Florida. The sections of the Ordinances may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

**SECTION FOUR: EFFECTIVE DATE.**

This Ordinance shall be effective upon filing with the Department of State.

PASSED AND DULY ADOPTED by a vote of a majority plus one of the Board of County Commissioners of Collier County, Florida, this 23~~rd~~ day of April, 2013.

ATTEST:  
DWIGHT E. BROCK, CLERK

By: *J. Cannon*  
Attest as to Chairman's  
signature only.

BOARD OF COUNTY COMMISSIONERS  
COLLIER COUNTY, FLORIDA

By: *[Signature]*  
GEORGIA A. HILLER, ESQ.,  
CHAIRWOMAN

Approved as to form  
and legal sufficiency:

*CMG Colleen M. Greene*  
Colleen M. Greene  
Assistant County Attorney

This ordinance filed with the  
Secretary of State's Office the  
29<sup>th</sup> day of April, 2013  
and acknowledgement of that  
filing received this 3<sup>rd</sup> day  
of May, 2013  
By: *J. Cannon*  
Deputy Clerk

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STATE OF FLORIDA)

COUNTY OF COLLIER)

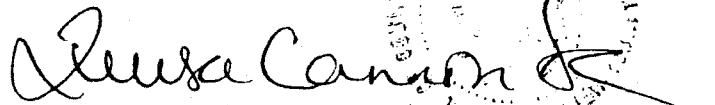
I, DWIGHT E. BROCK, Clerk of Courts in and for the Twentieth Judicial Circuit, Collier County, Florida, do hereby certify that the foregoing is a true and correct copy of:

**ORDINANCE 2013-30**

which was adopted by the Board of County Commissioners on the 23rd day of April, 2013, during Regular Session.

WITNESS my hand and the official seal of the Board of County Commissioners of Collier County, Florida, this 26th day of April, 2013.

DWIGHT E. BROCK  
Clerk of Courts and Clerk  
Ex-officio to Board of  
County Commissioners

A handwritten signature in cursive script, appearing to read "Teresa Cannon", is written over a circular official seal. The seal contains the text "OFFICE OF THE CLERK OF COURTS" and "COLLIER COUNTY, FLORIDA".

By: Teresa Cannon,  
Deputy Clerk