

ORDINANCE NO. 15 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, AMENDING CHAPTER 10, ARTICLE XIII, Section 10-381 OF THE MARION COUNTY CODE OF ORDINANCES, RELATING TO THE TOURIST DEVELOPMENT TAX, TO IMPOSE AN ADDITIONAL ONE-PERCENT (THE 3RD PERCENT) TOURIST DEVELOPMENT TAX; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Marion County, Florida, under the provisions of Section 125.0104, Florida Statutes, on July 6, 2004 adopted an ordinance levying a tourist development tax at a rate of two percent of each dollar and establishing a Tourist Development Plan for the uses of the tax generated by the tax; and

WHEREAS, the Board of County Commissioners desires to impose an additional one percent tourist development tax, pursuant to the authority provided in Subsection 125.0104 (3)(d), Florida Statutes; and

WHEREAS, the goal is to increase occupancy by fifteen percent over a period of five years in the shoulder season, which includes the second, third and fourth quarters of the year.

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

SECTION 1. Section 10-381, Tax Levied, is amended to read:

Sec. 10-381. Tax levied.

- (a) There is hereby levied, imposed, and set a tourist development tax throughout Marion County at a rate of two (2) percent of each whole and major fraction of each dollar of the total rental 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 hotel, rooming house, mobile home park, recreational vehicle park, or condominium 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 of the Florida Statutes. 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.
- (b) To promote and advertise tourism in the State of Florida and nationally and internationally, in addition to the two percent tax imposed under subsection (a) above, there is hereby levied, imposed and set an additional one percent of each whole and major fraction of each dollar of the total rental 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 hotel, rooming house, mobile home park, recreational vehicle park, or condominium 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

of the Florida Statutes. 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 effective date of the levy and imposition of the additional one percent tax under this subsection shall be November 1, 2015.

- (c) The 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 consideration for the rental or lease.
- (d) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, hereinafter referred to as "dealer", and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.
- (e) The county tax collector shall be responsible for the collection of the tax from the dealer and for the administration of the tax. The county tax collector shall keep appropriate records of said remittances.
- (f) The dealer for any period subsequent to April 1, 2008, shall receive, account for, and remit the tax to the county tax collector at the time and in the manner provided for persons who collect and remit taxes under F.S. section 212.03. 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, and compliance with the rules and regulations of the Florida Department of Revenue in the administration of such chapter shall apply to and be binding upon all persons who are subject to the provisions of this chapter, provided, however, the county tax collector may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed twenty-five dollars (\$25.00).
- (g) The county tax collector shall keep records showing the amount of taxes collected.
- (h) Tax revenues collected hereunder may be used only in accordance with the provisions of section 125.0104, Florida Statutes. Taxes collected by the county tax collector, less costs of administration not to exceed three (3) percent, shall be remitted to the Marion County Board of County Commissioners on a monthly basis.
- (i) The Marion County Tax Collector shall be bound by all rules promulgated by the Department of Revenue pursuant to section 125.0104(3)(k), Florida Statutes, as well as those rules pertaining to the sales and use tax on transient rentals imposed by section 212.03, Florida Statutes. The county tax collector may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purposes of this section.
- (j) A portion of the tax collected may be retained by the Marion County Tax Collector on behalf of the county, for costs of administration but such portion shall not exceed three (3) percent of collections.
- (k) The taxes imposed by this section shall become county funds at the moment of collection and shall for each month be due to the county tax collector on the first day and is delinquent on the twenty-first day of the month following, unless otherwise provided for by subsection (e).
- (l) The county tax collector assumes all responsibility for auditing the records and accounts of dealers and assessing collecting and enforcing payment of current and delinquent tourist development taxes. The Board of county commissioners 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 by but not limited to distress warrants, writ of garnishments, and criminal penalties as provided in chapter 212, Florida Statutes.
- (m) As specifically provided by section 212.12, Florida Statutes, when any person, firm, or corporation required hereunder to make any return or to pay any tax or fee imposed by this section, fails to timely file such return or fails to pay the tax or fee 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 or fees, a specific penalty shall be added to the tax or fee in the amount of ten (10) percent of any unpaid tax or fee, if the failure is for not more than thirty (30) days, with an additional ten percent

of any unpaid tax or fee for each additional 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 or fee. In no event may the penalty be less than ten dollars (\$10.00) for failure to timely file a tax return required by section 212.11(1)(b) or five dollars (\$5.00) for failure to timely file a tax return authorized by section 212.11(1)(c) or (d), Florida Statutes.

- (n) Interest earned on the tax collections received by the county tax collector shall be remitted to the board of county commissioners on a quarterly basis.
- (o) The county tax collector its designee shall perform the audit functions associated with this tax, including, without limitation, the following:
 - (1) For the purpose of enforcing this section, the county tax collector 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 section, in order to determine whether they are collecting the tax or otherwise complying with this section. In the event said person refuses to permit such examination of its books records, or other documents by the county tax collector as aforesaid, such person is guilty of violating the provisions of this part and shall be subject to the penalties provided for in section 125.69, Florida Statutes. The county 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 county tax collector for the reasonable administration of this part, and all such records which are located or maintained in this state shall be open for inspection by the county tax collector at all reasonable hours at such person's place of business located in Marion County. Any person who maintains such books and records at a point outside this county must make such books and records available for inspections by the county tax collector in Marion County. Any person subject to the provisions of this part who violates these provisions is guilty of violating the provisions of this part and shall be subject to the penalties provided for the section 125.69, Florida Statutes.
 - (3) The county tax collector or its designee 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 county tax collector 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:
 - 1. The approximate date on which the auditor is scheduled to begin the audit;
 - 2. A reminder that all records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor; and
 - 3. Any other request or suggestions the county tax collector 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.
- (p) 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 provisions of chapter 212, Florida Statutes.

SECTION 2. REPEAL. All ordinances or portions thereof in conflict herewith are, to the extent of such conflict, are hereby repealed.

SECTION 3. SEVERABILITY. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such as invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 4. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made part of the Marion County Code of Ordinances of Marion County, Florida; that the Code may be re-numbered or re-lettered to accomplish this intention.

SECTION 5. EFFECTIVE DATE. This ordinance shall become adopted upon an affirmative vote of a majority plus one of the members of the Marion County Board of County Commissioners. The Clerk of the Board of County Commissioners shall provide a certified copy hereof to the State of Florida, Department of State and Department of Revenue within ten (10) days of enactment.

DULY ADOPTED in regular session by the Board of County Commissioners, this 15th day of September, 2015.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA**

DAVID R. ELLSPERMANN, CLERK

STAN MCCLAIN, CHAIRMAN

ORDINANCE NO. 15 - _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MARION COUNTY, FLORIDA, AMENDING CHAPTER 10, ARTICLE XIII, Section 10-381 OF THE MARION COUNTY CODE OF ORDINANCES, RELATING TO THE TOURIST DEVELOPMENT TAX, TO IMPOSE AN ADDITIONAL ONE-PERCENT (THE 4TH PERCENT) TOURIST DEVELOPMENT TAX; PROVIDING FOR REPEAL; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Marion County, Florida, under the provisions of Section 125.0104, Florida Statutes, on July 6, 2004 adopted an ordinance levying a tourist development tax at a rate of two percent of each dollar and establishing a Tourist Development Plan for the uses of the tax generated by the tax; and

WHEREAS, The Board of County Commissioners, pursuant to the authority provided in Subsection 125.0104 (3) (d), Florida Statutes, adopted an ordinance on September 15, 2015 imposing an additional one percent tourist development tax; and

WHEREAS, the Board of County Commissioners desires to impose an additional one percent tourist development tax, pursuant to the authority provided in Subsection 125.010 (l)(4), Florida Statutes.

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

SECTION 1. Section 10-381, Tax Levied, is amended to read:

Sec. 10-381. Tax levied.

- (a) There is hereby levied, imposed, and set a tourist development tax throughout Marion County at a rate of two (2) percent of each whole and major fraction of each dollar of the total rental 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 hotel, rooming house, mobile home park, recreational vehicle park, or condominium 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 of the Florida Statutes. 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.
- (b) In addition to the two percent tax imposed under subsection (a) above, there is hereby levied, imposed and set an additional one percent of each whole and major fraction of each dollar of the total rental 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 hotel, rooming house, mobile home park, recreational vehicle park, or condominium 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 of the Florida Statutes. 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 effective date of the levy and imposition of the additional one percent tax under this subsection shall be November 1, 2015.

- (c) To promote and advertise tourism in this state and nationally and internationally, in addition to the three percent tax imposed under subsections (a) and (b) above, there is hereby levied, imposed and set an additional one percent of each whole and major fraction of each dollar of the total rental charged every person who rents, leases, or lets for consideration any living quarters or accommodations in any hotel, apartment hotel, motel, resort motel, apartment, rooming house, mobile home park, recreational vehicle park, or condominium 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. 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 effective date of the levy and imposition of the additional one percent tax under this subsection shall be November 1, 2015.
- (d) The 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 consideration for the rental or lease.
- (e) The tourist development tax shall be charged by the person receiving the consideration for the lease or rental, hereinafter referred to as "dealer", and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.
- (f) The county tax collector shall be responsible for the collection of the tax from the dealer and for the administration of the tax. The county tax collector shall keep appropriate records of said remittances.
- (g) The dealer for any period subsequent to April 1, 2008, shall receive, account for, and remit the tax to the county tax collector at the time and in the manner provided for persons who collect and remit taxes under F.S. section 212.03. 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, and compliance with the rules and regulations of the Florida Department of Revenue in the administration of such chapter shall apply to and be binding upon all persons who are subject to the provisions of this chapter, provided, however, the county tax collector may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed twenty-five dollars (\$25.00).
- (h) The county tax collector shall keep records showing the amount of taxes collected.
- (i) Tax revenues collected hereunder may be used only in accordance with the provisions of section 125.0104, Florida Statutes. Taxes collected by the county tax collector, less costs of administration not to exceed three (3) percent, shall be remitted to the Marion County Board of County Commissioners on a monthly basis.
- (j) The Marion County Tax Collector shall be bound by all rules promulgated by the Department of Revenue pursuant to section 125.0104(3)(k), Florida Statutes, as well as those rules pertaining to the sales and use tax on transient rentals imposed by section 212.03, Florida Statutes. The county tax collector may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

- (k) A portion of the tax collected may be retained by the Marion County Tax Collector on behalf of the county, for costs of administration but such portion shall not exceed three (3) percent of collections.
- (l) The taxes imposed by this section shall become county funds at the moment of collection and shall for each month be due to the county tax collector on the first day and is delinquent on the twenty-first day of the month following, unless otherwise provided for by subsection (e).
- (m) The county tax collector assumes all responsibility for auditing the records and accounts of dealers and assessing collecting and enforcing payment of current and delinquent tourist development taxes. The Board of county commissioners 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 by but not limited to distress warrants, writ of garnishments, and criminal penalties as provided in chapter 212, Florida Statutes.
- (n) As specifically provided by section 212.12, Florida Statutes, when any person, firm, or corporation required hereunder to make any return or to pay any tax or fee imposed by this section, fails to timely file such return or fails to pay the tax or fee 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 or fees, a specific penalty shall be added to the tax or fee in the amount of ten (10) percent of any unpaid tax or fee, if the failure is for not more than thirty (30) days, with an additional ten percent of any unpaid tax or fee for each additional 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 or fee. In no event may the penalty be less than ten dollars (\$10.00) for failure to timely file a tax return required by section 212.11(1)(b) or five dollars (\$5.00) for failure to timely file a tax return authorized by section 212.11(1)(c) or (d), Florida Statutes.
- (o) Interest earned on the tax collections received by the county tax collector shall be remitted to the board of county commissioners on a quarterly basis.
- (p) The county tax collector its designee shall perform the audit functions associated with this tax, including, without limitation, the following:
 - (1) For the purpose of enforcing this section, the county tax collector 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 section, in order to determine whether they are collecting the tax or otherwise complying with this section. In the event said person refuses to permit such examination of its books records, or other documents by the county tax collector as aforesaid, such person is guilty of violating the provisions of this part and shall be subject to the penalties provided for in section 125.69, Florida Statutes. The county 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 county tax collector for the reasonable administration of this part, and all such records which are located or maintained in this state shall be open for inspection by the county tax collector at all reasonable hours at such person's place of business located in Marion County. Any person who maintains such books and records at a point outside this county must make such books and records available for inspections by the county tax collector in Marion County. Any person subject to the provisions of this part who violates these provisions is guilty of violating the provisions of this part and shall be subject to the penalties provided for the section 125.69, Florida Statutes.
 - (3) The county tax collector or its designee 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 county tax collector 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:
 - 1. The approximate date on which the auditor is scheduled to begin the audit;
 - 2. A reminder that all records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor; and
 - 3. Any other request or suggestions the county tax collector 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.
- (q) 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 provisions of chapter 212, Florida Statutes.

SECTION 2. REPEAL. All ordinances or portions thereof in conflict herewith are, to the extent of such conflict, are hereby repealed.

SECTION 3. SEVERABILITY. It is the declared intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or provision of this ordinance is held invalid or unconstitutional by a court of competent jurisdiction, such as invalidity or unconstitutionality shall not be so construed as to render invalid or unconstitutional the remaining provisions of this ordinance.

SECTION 4. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners of Marion County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made part of the Marion County Code of Ordinances of Marion County, Florida; that the Code may be re-numbered or re-lettered to accomplish this intention.

SECTION 5. EFFECTIVE DATE. This ordinance shall become adopted upon an affirmative vote of a majority of the members of the Marion County Board of County Commissioners. The Clerk of the Board of County Commissioners shall provide a certified copy hereof to the State of Florida, Department of State and Department of Revenue within ten (10) days of enactment.

DULY ADOPTED in regular session by the Board of County Commissioners, this 15th day of September, 2015.

ATTEST:

**BOARD OF COUNTY COMMISSIONERS
MARION COUNTY, FLORIDA**

DAVID R. ELLSPERMANN, CLERK

STAN MCCLAIN, CHAIRMAN