

Sec. 71.238. - Tourist Development Council.

71.238.A. *Establishment; membership.* There is hereby established, pursuant to the provisions of F.S. § 125.0104, an advisory council to be known as the "Martin County Tourist Development Council", hereinafter referred to as the "council". The council shall be composed of nine members. One member of the council shall be the chairperson of the board or any other member of the board, as designated by the chairperson, who shall also serve as Chair of the council. The remaining eight members of the council shall be appointed by the board and shall have the following representative classifications:

1. Two members who are elected municipal officials, one of whom shall be from the most populous municipality in the county.
2. Three members who are owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax.
3. Three members who are involved in the tourist industry and who have demonstrated an interest in tourist development, but who are not owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the County and subject to the tax.

71.238.B. *Terms and conditions of membership.* All members of the council shall be electors of the County at the time of appointment and while serving on the council. Members shall serve without compensation, but may receive actual and necessary expenses incurred in the performance of their official duties from the funds described in section 71.243B.1. (Category A) herein. The members of the council shall serve for staggered terms of four-years. Those members of the council appointed by the board in its resolution dated July 10, 2001, establishing the initial council, shall continue to serve in such capacities for the terms set forth therein. Members of the council may be reappointed, provided they continue to meet the qualifications of membership, and may be removed with or without cause in the same manner as is presently set forth by resolution for the appointment of such members. A vacancy on the council not occurring by expiration of terms shall be filled by the board for the unexpired term in the same manner as is presently set forth by resolution for appointments to the council.

71.238.C. *Removal for lack of attendance.* Members of the council shall be automatically removed for lack of attendance. Lack of attendance means failure to attend three consecutive meetings and failure to attend more than one-half of the meetings scheduled during a calendar year. Participation for less than three-fourths of a meeting shall be the same as a failure to attend a meeting. Absences shall be entered into the minutes at the next regularly scheduled meeting of the council. Members removed under this paragraph shall not continue to serve until a new appointment is made and removal shall create a vacancy.

71.238.D. *Notice of meetings.* Reasonable public notice of all council meetings shall be provided and all such meetings shall be open to the public at all times.

71.238.E. *Annual report.* The council shall submit an annual report to the board pursuant to policies and procedures adopted by the board.

71.238.F. *Quorum.* A quorum must be present for the conduct of all council meetings. A majority of the members appointed shall constitute a quorum. All meetings shall be governed by Robert's Rules of Order.

- 71.238.G. *Recommendations to board.* The council shall, from time to time, make recommendations to the board for the effective operation of the special promotions and events or for uses of the tax revenue and perform such other duties as may be prescribed by ordinance or resolution of the board. Prior to making recommendations to the board as indicated above, the council shall review each proposal for expenditure of funds and determine that such expenditures comply with the tourist development plan set forth in section 71.242 herein.
- 71.238.H. *Review of expenditures.* The council shall continuously review expenditures of revenues from the Tourist Development Trust Fund established pursuant to F.S. § 124.0104, and shall receive, at least quarterly, expenditure reports from the board or its designee. Expenditures that the council believes to be unauthorized shall be reported to the board and the Florida Department of Revenue. The board shall review the council's findings and take appropriate administrative or judicial action to ensure compliance with F.S. § 124.0104.
- 71.238.I. *Plan submittal.* The council shall prepare and submit to the board, for its approval, a plan for tourist development. The plan shall set forth the anticipated net tourist development tax revenue to be derived by Martin County for 24 months following the levy of a tourist development tax enacted pursuant to F.S. § 124.0104; the tax district in which the tourist development tax is proposed; and a list, in the order of priority, of the proposed uses of tourist development tax revenue by specific promotion, event, or special use as authorized under F.S. § 124.0104(5). The plan shall include the approximate cost or expense allocation for each specific promotion, event, or special use.
- 71.238.J. *Quarterly meetings.* The council shall meet at least once each quarter and shall, from time to time, make recommendations to the board for the effective operation of special promotions, events, and for use of the tourist development tax revenue and perform such other duties as may be prescribed by resolution of the board.

(Ord. No. 611, § 7, 4-23-2002; Ord. No. 967, pt. 1, 1-20-2015)

Sec. 71.239. - Levy of tourist development tax.

- 71.239.A. *Levy and imposition of tax established.* The levy and imposition of the tourist development tax (hereinafter the "tax") throughout Martin County, Florida, is hereby established and enacted herein at a rate of two percent of each dollar and major fraction of each dollar of the total consideration charged for leases and rentals subject to the tax. The tax shall commence on the first day of the second month following approval of the ordinance by referendum, held on September 10, 2002. The tax is hereby increased by an additional one percent in accordance with F.S. § 125.0104(3)(d), and a second additional one percent in accordance with F.S. § 125.0104(3)(1) for a total tax of four percent, beginning on March 1, 2008. The tax is hereby increased by an additional one percent in accordance with F.S. § 125.0104(3)(n) for a total tax of five percent, beginning on July 1, 2015. The tax shall be applicable to 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 motel, rooming house, mobile home park, recreational vehicle park, or condominium 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 F.S. ch. 212. 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.

- 71.239.B. *Boundaries for tax district.* The district in which the tourist development tax is levied shall include the entirety of Martin County.
- 71.239.C. *Tax as additional tax.* The tax shall be in addition to any other tax imposed pursuant to F.S. ch. 212, and in addition to all other taxes and fees and the consideration for the rental or lease.
- 71.239.D. *Tax charged by and collection from.* The tax shall be charged by the person receiving the consideration for the lease or rental, and it shall be collected from the lessee, tenant, or customer at the time of payment of the consideration for such lease or rental.
- 71.239.E. *Initial collection.* The initial collection of the tax shall continue to be made in the same manner as the tax imposed under F.S. ch. 212, pt. I.
- 71.239.F. *Collection and administration of tax.* The person receiving the lease or rental consideration (also referred to herein as the "dealer") for any period subsequent to the effective date of the levy and imposition of the tax, shall receive, account for, and remit the tax to the Martin County Tax Collector (hereinafter the "Tax Collector"), who shall be responsible for the collection of the tax from the dealer and the administration of the tax. The Tax Collector shall keep appropriate records, books, and accounts of said remittances. The term "Tax Collector", for the purposes of this section, shall include any person in the office of the Tax Collector designated to carry out the duties and responsibilities prescribed herein.
- 71.239.G. *Duties and privileges of dealers.* The same duties and privileges imposed by F.S. ch. 212 upon dealers in tangible property, respecting the collection and remission of the tax, the making of returns, the keeping of books, records, and accounts, and the payment of a dealer's credit as required under F.S. ch. 212, pt. I, shall apply to and be binding upon all persons who are subject to the provisions of this section; however, the Tax Collector may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.00.
- 71.239.H. *Remittance of tax.* All taxes collected under this section shall be remitted to the Tax Collector, who shall collect and administer the tax according to the provisions of F.S. ch. 212, pt. I, and shall have the same powers, duties, and responsibilities as the Florida Department of Revenue under F.S. ch. 212, pt. I.
- 71.239.I. *Promulgation of rules and forms.* The Tax Collector shall promulgate such rules, and prescribe and publish such forms as may be necessary to effectuate the purposes of this section.

(Ord. No. 611, § 8, 4-23-2002; Ord. No. 785, pt. 1, 1-8-2008; Ord. No. 967, pt. 2, 1-20-2015)

Sec. 71.240. - Enforcement and audit functions.

The Tax Collector shall perform the enforcement and audit functions associated with the collection and remission of the tax, including, without limitation, the following:

- 71.240.A. *Examination of books and records.* For the purpose of enforcing the collection of the tax levied by this section, the Tax Collector is hereby specifically authorized and empowered to examine at all reasonable hours the books, records,

and other documents of all dealers 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 dealer or person refuses to permit such examination of its books, records, or other documents by the Tax Collector as aforesaid, such dealer or person is guilty of a violation of this section and shall be subject to the penalties provided for in F.S. § 125.69. The Tax Collector 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.

71.240.B. *Dealer to maintain books and records.* Each dealer shall secure, maintain, and keep for a period of three years a complete record of rooms or other lodging, leased or rented by said dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the Tax Collector for the reasonable administration of this section; and all such records which are located or maintained in the county shall be open for inspection by the Tax Collector at all reasonable hours at such dealer's place of business located in the County. Any dealer who maintains such books and records at a point outside the County must make such books and records available for inspection by the Tax Collector in the County. Any dealer subject to the provisions of this section who violates these provisions is guilty of a violation of this section, punishable as provided in F.S. § 125.69.

71.240.C. *Notification of audit.* The Tax Collector shall send written notification, at least 60 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The Tax Collector is not required to give 60 days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

71.240.D. *[Contents of written notification.]* Such written notification shall contain:

1. The approximate date on which the auditor is scheduled to begin the audit.
2. A reminder that all of the records, receipts, invoices, exemption certificates, and related documentation of the taxpayer must be made available to the auditor.
3. Any other request or suggestions the Tax Collector may deem necessary.

71.240.E. *[Acceptable documentation.]* Only records, receipts, invoices, exemption certificates, and related documentation which are available to the auditor when such audit begins shall be deemed acceptable for the purposes of conducting such audit.

71.240.F. *Responsibility for auditing, assessing, collecting, and enforcing payment.* The County, through the Tax Collector, assumes all responsibility for auditing the records and accounts of dealers and assessing, collecting, and enforcing payment of delinquent taxes. The County adopts and delegates to the Tax Collector any and all powers and authority granted to the State of Florida Department of Revenue in F.S. § 125.0104 and ch. 212, Part I, and as further incorporated therein, to determine the amount of the tax, penalties, and interest to be paid by each dealer and to enforce payment of such tax, penalties, and interest.

71.240.G. *Failure to charge and collect tax.* Any dealer, either by himself or through his or her agents or employees, who fails or refuses to charge and collect the taxes herein provided is personally liable for the payment of the tax and is punishable as provided by law.

71.240.H. *Absorption and relief of tax prohibited.* No person shall advertise or hold out to the public in any manner, directly or indirectly, that he or she will absorb all or any part of the tax; that he or she 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 this provision is punishable as provided by law.

71.240.I. *Tax constitutes lien on property.* The tax levied pursuant to this article shall constitute a lien on the property of the dealer in the same manner as, and shall be collectible as, liens authorized and imposed in F.S. §§ 713.67, 713.68, and 713.69.

71.240.J. *Use of tax revenues.* Tax revenues collected hereunder may be used only in accordance with the provisions of F.S. § 125.0104.

71.240.K. *Taxes are County funds.* All taxes imposed by this section shall become County funds at the moment of collection and shall for each month be due to the Tax Collector on the first day of the succeeding month and be delinquent on the twenty-first day of such month. All returns postmarked after the twentieth day of such month are delinquent.

71.240.L. *Remittance of taxes collected and interest thereon to clerk.* All taxes collected hereunder, less the costs of administration on the collections received, shall be remitted monthly to the clerk of the Board [of County Commissioners] and placed in the Martin County Tourist Development Trust Fund. Interest on the collections received by the Tax Collector shall be remitted to the Clerk of the Board quarterly and placed in the Martin County Tourist Development Trust Fund.

(Ord. No. 611, § 9, 4-23-2002)

Sec. 71.241. - Local administration of tax.

71.241.A. *[Collection and administration of tax.]* The County intends to be exempted from those requirements of F.S. § 125.0104(3)(g), that the tax collected be remitted to the Department of Revenue before being returned to the County. The County intends to provide for the collection and administration of the tax on a local basis in accordance with F.S. § 125.0104(1).

71.241.B. *Costs of administration.* A portion of the tax collected may be retained by the County for the costs of administration, but such portion shall not exceed two percent of collections. The percentage of tax revenues retained by the County for the costs of administration will be accounted for by the County in the same manner in which other fees and commissions paid to the County are accounted. Any fees paid to the County for County expenditures would be subject to approval by the council. Any County payment would be based on a cost reimbursement basis and paid upon the submittal of an acceptable statement of expenditures.

71.241.C. *Cost of collection.* The Martin County Tax Collector shall be responsible for the collection of the tax. The dealer for any rental or lease within the scope of F.S. § 125.0104(3)(a), shall receive, account for, and remit the tax to the Tax Collector. The Tax Collector shall keep records showing the amount of taxes collected as well as appropriate books and accounts associated therewith.

71.241.D. *[Collections received by Tax Collector.]* Collections received by the Tax Collector, less costs of collection not to exceed three percent of collections or alternatively stipulated in F.S. §§ 125.0104 and 212.03, shall be paid and returned on a monthly basis to the County for use by the County in accordance with the provisions of this article and shall be placed in the County Tourist Development Trust Fund in accordance with the tourist development plan contained in section 71.242 herein.

71.241.E. *[Records to be available for inspection.]* The Tax Collector's books and records relating to collections under this section shall be available for inspection by the County and the County's auditors at reasonable times.

(Ord. No. 611, § 10, 4-23-2002)

Sec. 71.242. - Tourist development plan.

The tax revenues received pursuant to this section shall be used to fund the Martin County Tourist Development Plan ("the plan"), which is hereby adopted as follows:

71.242.A. *Anticipated revenues.* The tourist development tax shall be levied at a rate of five percent of each dollar and major fraction of each dollar of the total consideration charged for leases and rentals subject to the tax. The anticipated net tourist development tax revenue to be derived by Martin County for the 24 months following the levy of the five-cent tax is \$3,200,000.00, less costs of administration and collection as retained by the board and the Tax Collector.

71.242.B. *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, the plan establishes the uses of the tax revenue by specific promotion, event, or special use as authorized in F.S. § 125.0104(5). The plan also includes the expense allocation by percentage for each specific promotion, activity or special use.

71.242.C. *Use and allocation of five percent tax.* The following categories of use of the five percent tax are set forth in section 71.243 herein, together with the percentage of the total amount of yearly revenues to be expended for, or credited to, each category, less cost of collection and administration, subject to the provisions of this article and the approval of the annual Tourist Development Council budget by the Board.

(Ord. No. 611, § 11, 4-23-2002; Ord. No. 785, pt. 2, 1-8-2008; Ord. No. 790, pt. 1, 2-12-2008; Ord. No. 967, pt. 3, 1-20-2015)

Sec. 71.243. - Uses of funds.

The tax revenues received pursuant to this article shall be used to fund the Martin County Tourist Development Plan, which is hereby adopted as follows:

71.243.A. *Purpose.* Pursuant to the provisions of the Local Option Tourist Development Act, this tourist development plan establishes the uses of the tax revenue by specific promotion, event, or special use as authorized in F.S. § 125.0104(5). The plan also includes the expense allocation by percentage for each specific promotion, activity or special use.

71.243.B. *Categories of use and percentages of tax revenues.* The following categories of use of the five percent tax are set forth together with a table of the tax percentages of the total amount of yearly revenues by category:

1. *Category A:* Promote and advertise Martin County tourism related activities throughout the State, nationally and internationally for the purpose of development of overnight tourism, including the provision of tourism promotion, advertising, marketing, public relations, and sales including arts, film and television marketing and development. There shall be an annual amount established within this category for administrative expenses, which shall not exceed 15 percent of the total Tourist Development Trust Fund budget, as approved by the Council and the Board. Administrative expenses shall include administrative staff salaries, benefits, administrative travel, indirect costs, all costs of furnishing and operating administrative offices whether paid directly or by reimbursement, actual and necessary expenses of Council members incurred in the performance of their official duties as provided herein, except that funds for contractual services from the administrative budget may be expended only upon the express prior approval of the Council.
2. *Category B:* Provide for the promotion of sports events and activities to promote the County as a sports destination.
3. *Category C:* Provide for the acquisition, construction, extension, enlargement, remodeling, repair and/or improvement of a museum, exposition center, nature center and other tourist-related attractions.
4. *Category D:* To finance beach improvement and maintenance, maintenance of the St. Lucie Inlet as well as those uses set forth in F.S. § 125.0104(5)(a)(5), and as may thereafter be amended. The dedicated maintenance funding of the St. Lucie Inlet shall not exceed \$500,000.00 per fiscal year.

Percentage of annual revenue:

TABLE OF TAX PERCENTAGES

Category	1st Cent F.S. § 125.0104 (3)(c)	2nd Cent F.S. § 125.0104 (3)(e)	3rd Cent F.S. § 125.0104 (3)(d)	4th Cent F.S. § 125.0104 (3)(1)	5th Cent F.S. § 125.0104 (3)(n)	Total
A. Promotion		45%	00.00%	40%	100%	37.00%
B. Sports promotion		00.00%	00.00%	60.00%	00.00%	12.00%
C. Capital projects		00.00%	30%		00.00%	6%
D. Beach and inlet	100%	55%	70%		00.00%	45%

Inlet capped at \$500,000.00						
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71.243.C. *Funds on deposit; investment.* Any funds on deposit, which are not immediately necessary for expenditure, shall be invested by the County. All income derived from such investments shall be deposited in the specific TDC trust fund from which the invested funds came.

71.243.D. *Funding of convention bureau or similar organization.* Tourist development tax revenues may be used to fund a convention bureau, tourist bureau, or similar organization as a County agency or by contract with a not-for-profit association in the County, which may include any indirect administrative costs for services performed by the County on behalf of the promotion agency, provided such contract is approved by the Board of County Commissioners, and that tourist development tax revenues are used for specified purposes delineated in the Tourist Development Plan.

(Ord. No. 611, § 12, 4-23-2002; Ord. No. 690, pt. 1, 12-20-2005; Ord. No. 785, pt. 3, 1-8-2008; Ord. No. 790, pt. 2, 2-12-2008; Ord. No. 883, pt. 1, 9-28-2010; Ord. No. 967, pt. 4, 1-20-2015)

Sec. 71.244. - Annual review of the plan.

The Council and the Board shall annually review the plan. On or before September 1 of each year, the Council shall forward to the Board its recommendation(s) for revision, if any, to the plan. The Board shall review the plan to determine the most effective use of the revenues derived from the tax.

(Ord. No. 611, § 13, 4-23-2002)

Sec. 71.245. - Amendment of the plan.

Except as provided in F.S. § 125.0104, the above 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 (not less than four County Commissioners).

(Ord. No. 611, § 14, 4-23-2002)

Secs. 71.246—71.270. - Reserved.