



## COLUMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AGENDA ITEM REQUEST FORM

The Board of County Commissioners meets the 1st and 3rd Thursday of each month at 5:30 p.m. in the Columbia County School Board Administrative Complex Auditorium, 372 West Duval Street, Lake City, Florida 32055. All agenda items are due in the Board's office one week prior to the meeting date.

Today's Date: 10/30/2020 Meeting Date: 11/5/2020

Name: Joel Foreman Department: County Attorney

Division Manager's Signature:

A handwritten signature in blue ink, appearing to read "Joel Foreman", is written over the signature line.

### 1. Nature and purpose of agenda item:

Update on current composition of Tourist Development Council and requirements of local ordinance and state law

### 2. Recommended Motion/Action:

None. Item is for discussion and direction only

### 3. Fiscal impact on current budget.

This item has no effect on the current budget.

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**MEMORANDUM**

To: Board Agenda, November 5, 2020

From: Joel F. Foreman

Re: **Composition of the Tourist Development Council**

Date: October 29, 2020

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In the course of updating and soliciting applications for appointment to the County's Tourist Development Council, TDC Director Paula Vann requested my review of the ordinance creating TDC and the operative statute. Based on that review, it appears that the TDC is not currently constituted according to Ordinance 84R-1 or Florida Statutes section 125.0104(4). A copy of the ordinance and portion of the statute are attached.

Ordinance 84R-1 at Section 3 provides:

“... The Council shall be composed of nine members who shall be appointed by the Board of County Commissioners. **The Chairman of the Board of County Commissioners shall serve as Chairman of the Council. Two members of the Council shall be elected municipal officials among all municipalities within the County** after the initial terms herein specified. **Three members of the Council shall be owners or operators of motels, hotels or other tourist accommodations** located in Columbia county and subject to the tax hereby levied. **Three members of the Council shall be persons 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 or other tourist accommodations in Columbia county.”

Florida Statutes section 125.0104(4)(e) provides in relevant part:

(e)The governing board of each county which levies and imposes a tourist development tax under this section shall appoint an advisory council to be known as the “ (name of county) Tourist Development Council.” The council shall be established by ordinance and composed of **nine members** who shall be appointed by the governing board. **The chair of the governing board of the county or any other member of the governing board as designated by the chair shall serve on the council. Two members of the council shall be elected municipal officials**, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. **Six members of the council shall be persons who are involved in the tourist industry** and who have demonstrated an interest in tourist development, of which members, **not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax.** All members of the council shall be electors of the county. **The governing**

**board of the county shall have the option of designating the chair of the council or allowing the council to elect a chair. ...**

The common threads from these two pieces of controlling legislation are as follows:

1. There can only be NINE members of the TDC.
2. One County Commissioner is authorized to serve on TDC at any given time. That person may be the Chair of the BCC or another Commissioner as appointed by the Chair.
3. Two municipal officers must be appointed to TDC. At least one must come from Lake City as “the most populous municipality in the county”.
4. At least three, but not more than four members of TDC must be owners or operators of “motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax”.
5. The remaining members of TDC (two or three members), must be “persons who are involved in the tourist industry and who have demonstrated an interest in tourist development”
6. All TDC members must be electors of the County (i.e. eligible to vote in Columbia County).

Based on the foregoing, when the reorganization occurs after appointment of the next chair, only one Commissioner should be appointed to TDC and the Board should identify an additional *elected* municipal official from Lake City or Fort White to serve.

Recommended Motion: None. This item is for discussion and direction only.

COLUMBIA COUNTY ORDINANCE NO. 84R-1

AN ORDINANCE TO LEVY AND IMPOSE AND SET A TWO PER-CENT (2%) TOURIST DEVELOPMENT TAX THROUGHOUT COLUMBIA COUNTY PURSUANT TO THE "LOCAL OPTION TOURIST DEVELOPMENT ACT", FLORIDA STATUTES 125.0104; PROVIDING FOR THE COLLECTION OF SAID TAX: RELATING TO A TAX ON 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, TOURIST OR TRAILER CAMP, OR CONDOMINIUM FOR A TERM OF SIX (6) MONTHS OR LESS; PROVIDING THAT THE REVENUES SO RAISED BE UTILIZED TO IMPLEMENT THE COLUMBIA COUNTY TOURIST DEVELOPMENT PLAN; RELATING TO PROMOTION AND ADVERTISING TOURISM; PROVIDING FOR THE ADOPTION OF THE COLUMBIA COUNTY TOURIST DEVELOPMENT PLAN; PROVIDING FOR A REFERENDUM ON THE TOURIST DEVELOPMENT TAX: ESTABLISHING A COLUMBIA COUNTY TOURIST DEVELOPMENT COUNCIL; PROVIDING FOR THE TERMS "QUALIFICATIONS" AND "POWERS" OF THE MEMBERS OF SAID COUNCIL; PROVIDING FOR PENALTIES FOR FAILURE TO COLLECT THE TAX LEVIED; PROVIDING FOR REPEAL OF THE TAX BY REFERENDUM ELECTION; PROVIDING FOR SEVERABILITY OF ORDINANCE PROVISIONS AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Chapter 125.0104, Florida Statutes, provides for the levy of a local option Tourist Development Tax by any county; and,

WHEREAS, under the provisions of said law, the Board of County Commissioners, Columbia County, Florida, did on July 19, 1984, adopt a Resolution establishing and appointing the members of the Columbia County Tourist Development Council; and,

WHEREAS, said Tourist Development Council has presented to the Board of County Commissioners its plan for tourist development;

WHEREAS, it is the intent of this Ordinance that the Tourist Development Tax, if enacted, be used to stabilize the tourist related economy of Columbia County on a year round basis;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF COLUMBIA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. (a) There is hereby levied and imposed and set a Tourist Development Tax throughout Columbia County, Florida, at a rate of two per-cent (2%) 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 motel, rooming house, tourist or trailer camp, or condominium for a term of six (6) months or less. 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 non-monetary considerations.

(b) 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 considerations for the rental or lease.

(c) The Tourist Development 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.

(d) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the State of Florida Department of Revenue at the time and in the manner provided for persons who collect and remit taxes under Section 212.03, Florida Statutes. 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 of the Florida Department of Revenue in the administration of said chapter shall apply to and be binding upon all persons who are subject to the provisions of this act; provided, however, the said Department of Revenue may authorize a quarterly return and payment when the tax remitted by the person receiving the consideration of such rental or lease for the preceding quarter did not exceed \$ 25.00.

(e) The said Department of Revenue shall keep records showing the amount of taxes collected, which shall also include records disclosing the amount of taxes collected for and from each county in which the tax authorized by this act is applicable. These records shall be open to the public during the regular office hours of the said Department of Revenue, as provided in Section 213.072, Florida Statutes.

(f) Collections received by the said Department of Revenue from the tax, less costs of administration of this Ordinance shall be paid and returned, on a monthly basis to Columbia County for use by the county in accordance with the provisions of this Ordinance and shall be placed in the County Tourist Development Trust Fund.

(g) The said Department of Revenue, under the applicable rules of the Career Service Commission, is authorized to employ person and incur other expenses as appropriate by the legislature of the State of Florida to administer this Ordinance.

(h) The said Department of Revenue may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purposes of this Ordinance.

SECTION 2. The tax revenues received pursuant to this Ordinance shall be used to fund the Columbia County Tourist Development Plan, which is hereby adopted as follows:

#### TOURIST DEVELOPMENT PLAN

Under the provisions of the Local Option Tourist Development Act, a two per-cent (2%) Tourist Development Tax will be levied throughout Columbia County, beginning on the first day of the month following approval of the Ordinance by Referendum as provided by this Ordinance. The anticipated net revenue for the twenty-four (24) month period beginning on said date of levy is Two Hundred Twenty-five Thousand Dollars (\$ 225,000.00).

The Tourist Development Tax for Columbia County is to strengthen our local economy and increase employment by investing the total receipts of the Tourist Development Tax into a Trust Fund to be used exclusively for:

1. To promote and advertise Columbia County and its tourism industry, nationally and internationally.
2. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote a Columbia County Tourist Information Center.

The above and foregoing Tourist Development Plan may not be amended except by Ordinance enacted by an affirmative vote of a majority plus one (1) additional member of the Board of County Commissioners.

SECTION 3. There is hereby established, pursuant to the provisions of Section 125.0104, Florida Statutes, an advisory council to be known as the "Columbia County Tourist Development Council". The council shall be composed of nine members who shall be appointed by the Board of County Commissioners. The Chairman of the Board of County Commissioners shall serve as Chairman of the Council. Two members of the Council shall be elected municipal officials. The Board of County Commissioners will attempt to rotate the appointments of the elected municipal officials among all municipalities within the County after the initial terms herein specified. Three members of the Council shall be owners or operators of motels, hotels or other tourist accommodations located in Columbia County and subject to the tax hereby levied. Three members of the Council shall be persons 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 or other tourist accommodations in Columbia County. All members of the Council shall serve for staggered terms of four (4) years.

The members of the council hereby established and their respective initial terms of office are as follows:

NAME	TERM OF OFFICE
Jerry V. "Buck" Ward, Chairman Board of County Commissioners	Duration of his term as Chairman of the Board of County Commissioners
T. Gerald Witt, Mayor City of Lake City	Duration of his term as Mayor of Lake City
Mike Collins, Vice-Mayor City of Lake City	Duration of his term as Vice-Mayor of Lake City
Mahandra Patel, Motel Operator	Four (4) years
W. L. Summers, Motel Operator	Four (4) years
John Yanni, Motel Operator	Four (4) years
Doug Davis, Executive Director Chamber of Commerce	Duration of his term as Executive Director of the Chamber of Commerce
Ron Williams, General Contractor	Three (3) years
Jack Smith, Manager Gleasons Corner Mall	Two (2) years

The Council hereby established shall, from time to time, make recommendations to the Board of County Commissioners for the effective operation of the special projects or uses of the tourist development tax revenue raised by the tax hereby levied and may perform such other duties or functions as hereinafter may be prescribed by Ordinance or Resolution.

The Council shall continuously review all expenditures of revenue raised by the tax hereby levied, receive at least quarterly expenditure reports from the Board of County Commissioners or its designee, and shall report to the Board of County Commissioners all expenditures of said revenue believed to be unauthorized by the provisions of this Ordinance. The Board of County Commissioners, upon receiving notification of expenditures believed to be unauthorized by the Council shall review the Council's findings and take such administrative or judicial action as it sees fit to insure compliance with this Ordinance and the provisions of Section 125.0104, FL Statutes.

SECTION 4. Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

SECTION 5. 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, or 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 provisions of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

SECTION 6. The tax hereby levied shall constitute a lien on the property of the lessee, customer or tenant in the same manner as, and shall be collectible as are, liens authorized and imposed in Sections 713.67, 713.68, and 713.69, Florida Statutes.

SECTION 7. Upon petition of fifteen percent (15%), or more, of the electors of Columbia County, the Board of County Commissioners shall cause an election to be held for the repeal of this Ordinance and the Tourist Development Tax levied subject only to any outstanding revenue bonds for which the tax has been pledged.

SECTION 8. It is declared to be the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portions shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.

SECTION 9. This Ordinance shall become effective on the first day of the month following its being approved in a referendum election, held for the purpose of approving or rejecting this Ordinance, by a majority of the electors voting in such referendum election, and upon its being filed with the Office of the Secretary of State in Tallahassee, Florida with a certified copy hereof being furnished to the State of Florida, Department of Revenue.

SECTION 10. Pursuant to Chapter 125.0104, Florida Statutes, a Referendum election shall be held in Columbia County and the county shall cause to be placed on the ballot the question of the approval or disapproval of this Ordinance, such question to appear on the ballot substantially as follows:

\_\_\_\_\_ FOR THE TOURIST DEVELOPMENT TAX  
\_\_\_\_\_ AGAINST THE TOURIST DEVELOPMENT TAX

DULY PASSED AND ADOPTED THIS 20th day of September, 1984.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF COLUMBIA COUNTY, FLORIDA

BY: Mary B. Childs  
Mary B. Childs, Clerk

BY: Jerry V. Ward  
Jerry V. Ward, Chairman

Select Year: 2020 ▼ Go

## The 2020 Florida Statutes

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[Title XI](#)  
COUNTY ORGANIZATION AND INTERGOVERNMENTAL  
RELATIONS

[Chapter 125](#)  
COUNTY  
GOVERNMENT

[View Entire  
Chapter](#)

**125.0104 Tourist development tax; procedure for levying; authorized uses; referendum; enforcement.—**

(1) **SHORT TITLE.**—This section shall be known and may be cited as the “Local Option Tourist Development Act.”

(2) **APPLICATION; DEFINITIONS.**—

(a) *Application.*—The provisions contained in chapter 212 apply to the administration of any tax levied pursuant to this section.

(b) *Definitions.*—For purposes of this section:

1. “Promotion” means marketing or advertising designed to increase tourist-related business activities.

2. “Tourist” means a person who participates in trade or recreation activities outside the county of his or her permanent residence or who rents or leases transient accommodations as described in paragraph (3)(a).

3. “Retained spring training franchise” means a spring training franchise that had a location in this state on or before December 31, 1998, and that has continuously remained at that location for at least the 10 years preceding that date.

(3) **TAXABLE PRIVILEGES; EXEMPTIONS; LEVY; RATE.**—

(a)1. It is declared to be the intent of the Legislature that 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, roominghouse, mobile home park, recreational vehicle park, condominium, or timeshare resort for a term of 6 months or less is exercising a privilege which is subject to taxation under this section, unless such person rents, leases, or lets for consideration any living quarters or accommodations which are exempt according to the provisions of chapter 212.

2.a. Tax shall be due on the consideration paid for occupancy in the county pursuant to a regulated short-term product, as defined in s. [721.05](#), or occupancy in the county pursuant to a product that would be deemed a regulated short-term product if the agreement to purchase the short-term right were executed in this state. Such tax shall be collected on the last day of occupancy within the county unless such consideration is applied to the purchase of a timeshare estate. The occupancy of an accommodation of a timeshare resort pursuant to a timeshare plan, a multisite timeshare plan, or an exchange transaction in an exchange program, as defined in s. [721.05](#), by the owner of a timeshare interest or such owner’s guest, which guest is not paying monetary consideration to the owner or to a third party for the benefit of the owner, is not a privilege subject to taxation under this section. A membership or transaction fee paid by a timeshare owner that does not provide the timeshare owner with the right to occupy any specific timeshare unit but merely provides the timeshare owner with the opportunity to exchange a timeshare interest through an exchange program is a service charge and not subject to taxation under this section.

b. Consideration paid for the purchase of a timeshare license in a timeshare plan, as defined in s. [721.05](#), is rent subject to taxation under this section.

(b) Subject to the provisions of this section, any county in this state may levy and impose a tourist development tax on the exercise within its boundaries of the taxable privilege described in paragraph (a), except that there shall be no additional levy under this section in any cities or towns presently imposing a municipal resort tax as authorized under chapter 67-930, Laws of Florida, and this section shall not in any way affect the powers

(d) The governing board of the county shall adopt the county plan for tourist development as part of the ordinance levying the tax. After enactment of the ordinance levying and imposing the tax, the plan of tourist development may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the governing board.

(e) The governing board of each county which levies and imposes a tourist development tax under this section shall appoint an advisory council to be known as the “(name of county) Tourist Development Council.” The council shall be established by ordinance and composed of nine members who shall be appointed by the governing board. The chair of the governing board of the county or any other member of the governing board as designated by the chair shall serve on the council. Two members of the council shall be elected municipal officials, at least one of whom shall be from the most populous municipality in the county or subcounty special taxing district in which the tax is levied. Six members of the council shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members, not less than three nor more than four shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist accommodations in the county and subject to the tax. All members of the council shall be electors of the county. The governing board of the county shall have the option of designating the chair of the council or allowing the council to elect a chair. The chair shall be appointed or elected annually and may be reelected or reappointed. The members of the council shall serve for staggered terms of 4 years. The terms of office of the original members shall be prescribed in the resolution required under paragraph (b). The council shall meet at least once each quarter and, from time to time, shall make recommendations to the county governing board for the effective operation of the special projects or for uses of the tourist development tax revenue and perform such other duties as may be prescribed by county ordinance or resolution. The council shall continuously review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the county governing board or its designee. Expenditures which the council believes to be unauthorized shall be reported to the county governing board and the Department of Revenue. The governing board and the department shall review the findings of the council and take appropriate administrative or judicial action to ensure compliance with this section. The changes in the composition of the membership of the tourist development council mandated by chapter 86-4, Laws of Florida, and this act shall not cause the interruption of the current term of any person who is a member of a council on October 1, 1996.

(5) AUTHORIZED USES OF REVENUE.—

(a) All tax revenues received pursuant to this section by a county imposing the tourist development tax shall be used by that county for the following purposes only:

1. To acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate, or promote one or more:

a. Publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the boundaries of the county or subcounty special taxing district in which the tax is levied;

b. Auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 U.S.C. s. 501(c)(3) and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied; or

c. Aquariums or museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the boundaries of the county or subcounty special taxing district in which the tax is levied;

2. To promote zoological parks that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public;

3. To promote and advertise tourism in this state 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;

4. To fund convention bureaus, tourist bureaus, tourist information centers, and news bureaus as county agencies or by contract with the chambers of commerce or similar associations in the county, which may include