ORDINANCE NO. 2003-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING ARTICLE III OF CHAPTER 11 OF THE CODE OF LAWS OF LEON COUNTY, REGARDING THE TOURIST DEVELOPMENT TAX; AMENDING SECTION 11-46 OF THE CODE OF LAWS OF LEON COUNTY, FLORIDA, RELATING TO PENALTIES FOR NONCOMPLIANCE; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, during the 2003 Legislative Session, the Florida Legislature adopted SB 1176, which was approved by the Governor on June 25, 2003, and codified at Chapter 2003-254, Laws of Florida; and

WHEREAS, Chapter 2003-254, Laws of Florida, amends portions of Section 212.12, Florida Statutes, relating to penalties for non-compliance; and

WHEREAS, the Board of County Commissioners of Leon County, Florida desires to incorporate these statutory amendments into Section 11-46 of the Code of Laws of Leon County, Florida, relating to the tourist development tax;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, THAT:

Section 1. Section 11-46 of Article III of Chapter 11 of the Code of Laws of Leon County, Florida, entitled "Imposed; Collection," is hereby amended to read as follows:

ARTICLE III. TOURIST DEVELOPMENT TAX

Sec. 11-46. Imposed; collection.

* * * *

(n) As specifically provided by F.S. § 212.12, "Penalties for non-compliance", when any person, ~~firm, or corporation~~ required hereunder to make any return or to pay the tax imposed by this section, either fails to timely file such return or fails to pay the tax shown due on the return 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, a specific penalty shall be added to the tax in the amount of ten percent of either the tax shown on the return that is not timely filed or any ~~unpaid~~ tax~~,~~ not paid timely. ~~if the failure is for not more than 30 days, with an additional 10 percent of any unpaid tax or fee for each additional 30 days, or fraction thereof, during the time which the failure continues, not to exceed a total penalty of 50 percent, in the aggregate, of any unpaid tax or fee. In no event may the~~ The penalty may not be less than $50.00 ~~$10.00~~ for failure to timely file a tax return required by F.S. § 212.11(1), or timely pay the tax shown due on the return except as provided in F.S. § 213.21(10). If a person fails to timely file a return required by F.S. § 212.11(1), and to timely pay the tax shown due on the return, only one penalty of 10 percent, which may not be less than $50.00, shall be imposed.

(o) When any person required under this section to make a return or to pay a tax imposed by this section fails to disclose the tax on the return within the time required, excluding a noncompliant filing event generated by situations covered in subparagraph (n) hereinabove, in addition to all other penalties provided in this section and by the laws of this state in respect to such taxes, a specific penalty shall be added to the additional tax owed in the amount of 10 percent of any such unpaid tax or fee not paid timely if the failure is not for more than 30 days, with an additional 10 percent of any such unpaid tax for each additional 30 days, or fraction thereof while the failure continues, not to exceed a total penalty of 50 percent in the aggregate, of any unpaid tax or fee.

~~(o)~~ (p) When any person required hereunder to pay the tax imposed by this article fails to remit the tax or any portion thereof, on or before the day when such tax is required by this article to be paid, there shall be added to the amount due interest at the rate established by the Florida Department of Revenue for such tax and period from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 20th day of the month following the month for which the tax is due.

~~(p)~~ (q) Interest earned on the tax collections received by the county tax collector shall be remitted to the county on a monthly basis to be placed in the "Leon County Tourist Development Trust Fund."

~~(q)~~ (r) The Board of County Commissioners of Leon County or its designated agent shall perform the audit functions associated with this tax, including, without limitation, the following:

(1) For the purposes of enforcing this article, the examination at all reasonable hours of 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 article, in order to determine whether they are collecting the tax or otherwise complying with this article, F.S. § 125.0104 and F.S. ch. 212. In the event said person refuses to permit such examination of its books, records, or other documents by the Board of County Commissioners of Leon County or its designated agent as aforesaid, such person is guilty of violating the provisions of this article, F.S. § 125.0104 and F.S. ch. 212 and shall be subject to the penalties provided for in F.S. § 125.69. The county 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.

(2) Each person taxable hereunder, shall secure, maintain, and keep for a period of three 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 and the county tax collector for the reasonable administration of this article; and all such records which are located or maintained in this state shall be open for inspection by the county and the county tax collector at all reasonable hours at such person's place of business located in Leon County. Any person who maintains such books and records at a point outside this county must make such books and records available for inspection by the county and the county tax collector in Leon County. Any person subject to the provisions of this article who violates these provisions is guilty of violating the provisions of this article and shall be subject to the penalties provided for in F.S. § 125.69.

(3) The Board of County Commissioners of Leon County shall send written notification, at least 30 days prior to the date an auditor is scheduled to begin an audit, informing the taxpayer of the audit. The Board of County Commissioners of Leon County is not required to give 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:

(i) The appropriate date on which the auditor is scheduled to begin the audit.

(ii) A reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.

(iii) Any other request that the Board of County Commissioners of Leon County 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.

~~(r)~~ (s) 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 provision of F.S. § 212.12(1).

Section 2. **Conflicts.** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict, except to the extent of any conflicts with the Tallahassee-Leon County 2010 Comprehensive Plan as amended, which provisions shall prevail over any part of this ordinance which is inconsistent, either in whole or in part, with the said Comprehensive Plan.

Section 3. **Severability.** If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 4. **Effective date.** This ordinance shall have effect upon becoming law.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this _____ day of _____, 2003.

LEON COUNTY, FLORIDA

By:_____
Tony Grippa, Chairman
Board of County Commissioners

ATTESTED BY:
BOB INZER, CLERK OF THE COURT

By:_____
CLERK

APPROVED AS TO FORM:
COUNTY ATTORNEY'S OFFICE
LEON COUNTY, FLORIDA

By:_____
HERBERT W.A. THIELE
COUNTY ATTORNEY

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