

ARTICLE III. - TOURIST DEVELOPMENT TAX

Sec. 114-60. - Findings of fact.

The Board of County Commissioners of Sarasota County, Florida (the "Board") hereby makes the following findings of fact:

- (1) The Florida Local Option Tourist Development Act, F.S. § 125.0104, permits the Board to levy a tourist development tax ("TDT") in the manner prescribed therein.
- (2) On December 8, 1987, the Board adopted Ordinance No. 87-134 establishing a TDT levy of two percent subject to referendum (hereinafter referred to as the "Initial Two Percent Levy") within the boundaries of Sarasota County and approving a Tourist Development Plan in accordance with F.S. § 125.0104(3)(c).
- (3) The levy of the TDT as proposed in Ordinance No. 87-134 was approved by the registered voters of Sarasota County by referendum on September 6, 1988. The levy and collection of the Initial Two Percent Levy commenced on November 1, 1988, to be used 50 percent for beaches, 25 percent for arts and cultural activities, and 25 percent for advertising/promotion designed to bring tourism to Sarasota County.
- (4) Pursuant to F.S. § 125.0104(3)(d), the Board adopted (by extraordinary vote) Ordinance No. 96-071, which authorized the imposition of an additional one percent levy of the TDT (hereinafter referred to as the "First Additional One Percent Levy"), commencing April 1, 1997, to be used 30 percent for advertising/promotion designed to increase tourist-related business activities in Sarasota County and 70 percent for beach renourishment, beach restoration and beach erosion control within Sarasota County.
- (5) Thereafter, pursuant to F.S. § 125.0104(3)(l), the Board adopted (by unanimous vote) Ordinance No. 2006-061 authorizing another one percent increase in TDT levy (hereinafter referred to as the "Second Additional One Percent Levy"), commencing May 1, 2007, and amending the Tourist Development Plan to adjust the allocation of TDT revenues in compliance with the provisions of Section 125.0104, Florida Statutes, regarding the authorized uses of revenues from each TDT levy, to allow for an additional one-half percent to be used for advertising/promotion and one-half percent to be distributed to the City of Sarasota (the "City") for costs incurred by the City for either the renovation of the Ed Smith Stadium or the land acquisition and construction of a new sports stadium to be used as a spring training facility by a major league baseball team.
- (6) Subsequently, the Board adopted Ordinance No. 2008-026, amending the Tourist Development Plan to provide that the County's contribution of TDT to the City for a sports stadium was: (a) limited to the renovation of the existing Ed Smith Stadium, (b) capped at \$17.6 million in net present value, and (c) conditioned solely upon the execution of an interlocal agreement between the City and County detailing the responsibilities and obligations of the parties with respect to the renovation and operation of the Ed Smith Stadium. Ordinance No. 2008-026 further provided that in the event an interlocal agreement was not executed, that portion of the TDT levy allocated to the City for a sports stadium was to be allocated to the County for any other lawful use.
- (7) As a result of changed circumstances, the Board determined that any future contract with a major league baseball team for a spring training facility shall be between the team and the County, rather than the City, and the County will utilize TDT proceeds to finance the renovation of the Ed Smith Stadium or the construction of a new sports stadium and ancillary facilities as well as for capital repairs and improvements to the stadium, with the City transferring to the County the Ed Smith Stadium site for a nominal fee and the proceeds generated from a State grant for major league stadiums.

- (8) The renovation and/or construction of a sports stadium to be used as the spring training facility for a major league baseball team as well as for other events throughout the year will promote tourism throughout Sarasota County and contribute to the economic vitality of the local business community, including restaurants, hotels and other tourist attractions.
- (9) The construction, operation and maintenance of aquatic nature centers will provide a venue for world-class rowing competitions, boating and other aquatic activities which will promote tourism throughout Sarasota County and contribute to the economic vitality of such tourism-related businesses as restaurants, hotels and other tourist attractions.
- (10) Pursuant to F.S. § 125.0104(3)(n), the Board adopted Ordinance 2009-038 authorizing an additional one-half percent increase of TDT Levy ("Additional One-Half Percent Levy"), commencing May 1, 2010, to allow for the reallocation of TDT revenues among those uses authorized by F.S. § 125.0104, and amending the Tourist Development Plan to provide an allocation for an aquatic nature center and an increased allocation for advertising/promotion.
- (11) The levy and collection of a second additional one-half percent of TDT ("Second Additional One-Half Percent Levy") is an appropriate mechanism to generate increased revenues so as to allow for the reallocation of TDT revenues among those uses authorized by F.S. § 125.0104, which necessitates an amendment to the Tourist Development Plan to provide an increased allocation for an aquatic nature center to provide an enhanced tourist destination.
- (12) The expenditure of TDT revenues, as described in the Tourist Development Plan, as amended, will benefit and promote tourism in Sarasota County in accordance with F.S. § 125.0104 by funding the following: the improvement, cleanup, renourishment, maintenance, restoration, preservation and enhancement of beach park facilities and beaches; promotion and advertising tourism for Sarasota County, including cultural and fine arts events, programs and activities with the main purpose of attracting tourists; the construction and/or renovation of a sports stadium and ancillary facilities, the construction, operation, and maintenance of an aquatic nature center and ancillary facilities; aquatic events held at the aquatic nature centers or ancillary facilities; and tourism capital projects and events that attract new visitors.
- (13) The Board has held a duly-advertised public hearing on the proposed amendments to the TDT ordinance, at which hearing the Board considered all testimony and evidence received from interested parties and found that the Second Additional One-Half Percent Levy and the amendments to the Tourist Development Plan are in the best interests of the economic vitality of Sarasota County by expanding the scope of tourist-related activities in the County and promoting Sarasota County as a tourist destination.
- (14) The Board finds that the statutory requirements precedent to the levy of the Second Additional One-Half Percent Levy will be fulfilled upon approval by a majority vote plus one of the Board.
- (15) In light of the increasing costs for beach maintenance and the importance of Sarasota County's beaches to the economic vitality of such tourism-related businesses as restaurants, hotels and other tourist attractions, it is in the best interests of the County that the allocation of revenue from the First Additional One Percent Levy be amended to reflect an additional allocation to beach maintenance activities.
- (16) In recognition of the integral role the County's tourism board plays in promoting the tourist attractions of the County world-wide and the increasing administrative costs to effectively operate such an organization, it is in the best interests of the County's tourism industry that the limitation of TDT revenues to the County's tourism board for this purpose be increased accordingly.
- (17) On June 23, 2010, the Board adopted Ordinance 2010-049 to increase the membership of the Tourist Development Council pursuant to House Bill 1519, special act legislation for Sarasota County, providing for a representative from municipalities not previously represented on the Council and additional tourist industry representatives, increasing the composition from nine to 13 members.

(Ord. No. 96-071, § 1, 11-12-1996; Ord. No. 2004-032, § 2, 2-25-2004; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-026, § 2, 2-12-2008; Ord. No. 2009-038, § 2, 7-22-2009; Ord. No. 2010-012, § 2, 2-19-2010; Ord. No. 2010-076, § 2, 10-13-2010; Ord. No. 2011-048, § 2, 7-26-2011; Ord. No. 2014-051, § 2, 7-9-2014)

Sec. 114-61. - Levy and imposition of tourist development tax.

(a) *Initial Two Percent Levy.*

- (1) Pursuant to the authority of F.S. § 125.0104(3)(c), Sarasota County does levy and impose throughout the incorporated and unincorporated areas of Sarasota County, Florida, a TDT at a rate of two percent of each dollar and major fraction of each dollar of the total consideration 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, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not 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.
- (2) The levy of this Initial Two Percent Levy of TDT commenced November 1, 1988.

(b) *First Additional One Percent Levy (Third Percent).*

- (1) Pursuant to the authority in F.S. § 125.0104(3)(d), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one percent of each dollar and major fraction of each dollar of the total consideration 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, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not 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.
- (2) The levy of this First Additional One Percent Levy of TDT commenced April 1, 1997.

(c) *Second Additional One Percent Levy (Fourth Percent).*

- (1) Pursuant to the authority of F.S. § 125.0104(3)(l), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of a second additional TDT levy of one percent of each dollar and major fraction of each dollar of the total consideration 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, roominghouse, mobile home park, recreational vehicle park, or condominium which renting, leasing, or letting is for a term of six months or less and is not 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.
- (2) The levy of this Second Additional One Percent Levy of TDT commenced on May 1, 2007.

(d) *Additional One-Half Percent Levy (Four and One-Half Percent Total TDT Levy).*

- (1) Pursuant to the authority of F.S. § 125.0104(3)(n), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one-half percent of each dollar of the total consideration 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, roominghouse,

mobile home park, recreational vehicle park or condominium which renting, leasing or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212 ("Tourist Accommodations"). 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.

- (2) The levy of the Additional One-Half Percent of TDT shall commence on May 1, 2010, with a total TDT levy of four and one-half percent of each dollar of the total consideration charged for Tourist Accommodations.
- (e) *Second Additional One-Half Percent Levy (five percent total TDT levy).*
- (1) Pursuant to the authority of F.S. § 125.0104(3)(n), the Board hereby authorizes the levy and imposition throughout the incorporated and unincorporated areas of Sarasota County, Florida, of an additional TDT levy of one-half percent of each dollar of the total consideration 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, roominghouse, mobile home park, recreational vehicle park or condominium which renting, leasing or letting is for a term of six months or less and is not exempt according to the provisions of F.S. ch. 212 ("Tourist Accommodations"). 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 consideration.
 - (2) The levy of the Second Additional One-Half Percent of TDT shall commence on May 1, 2011, with a total TDT levy of five percent of each dollar of the total consideration charged for Tourist Accommodations.
- (f) *Tourist Development Plan.* The expenditures of revenue from the levy of the TDT pursuant to this section shall be in accordance with the terms of the Tourist Development Plan set forth in section 114-64 herein.
- (g) *Additional Tax.* The TDT, levied pursuant to subsections (a) through (e) of this section, is 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.
- (h) *Collection of Tourist Development Tax.* The TDT levied pursuant to subsections (a) through (e) of this section, 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.

(Ord. No. 87-134, § 1, 12-8-1987; Ord. No. 96-071, § 2, 11-12-1996; Ord. No. 98-095, § 2, 12-10-1998; Ord. No. 2003-046, § 2, 5-13-2003; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-101, § 2, 9-10-2008; Ord. No. 2009-038, § 2, 7-22-2009; Ord. No. 2010-012, § 2, 2-19-2010; Ord. No. 2010-076, § 3, 10-13-2010)

Sec. 114-62. - Collection and administration.

- (a) The person receiving the consideration from such rental or lease shall receive, account for, and remit the tax to the Sarasota County Tax Collector at the time and in the manner provided for persons who collect and remit taxes under F.S. § 212.03. All persons who are subject to the provisions of this article shall provide their federal employer identification or social security numbers to the Sarasota County Tax Collector. The same duties and privileges imposed by F.S. ch. 212, pt. I, upon dealers in tangible property respecting the remission and collection of tax, the making of returns, the payment of the required dealer's credit, 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 article; provided, however, the Sarasota County Tax Collector may authorize a quarterly return and payment when the tax remitted

by the person receiving the consideration for such rental or lease for the preceding quarter does not exceed \$25.00. All persons who are subject to the provisions of this article shall secure, maintain and keep for a period of five years a complete record of rooms or other lodging, leased or rented by said person, together with gross receipts from such sales and other pertinent records and papers as may be required by the Sarasota County Tax Collector for the administration of this article. Such books and records which are maintained at a point outside Sarasota County must be made available to the Clerk of the Circuit Court of Sarasota County for inspection in Sarasota County.

- (b) The Clerk of the Circuit Court of Sarasota County, acting as clerk and auditor to the Board of County Commissioners, is hereby authorized and directed to establish in the accounts of the Board of County Commissioners the Sarasota County tourist development trust fund, in which the proceeds of the tourist development tax shall be placed upon receipt from the Sarasota County Tax Collector.
- (c) The Sarasota County Tax Collector shall be responsible for the collection, distribution, and enforcement of the tax.
 - (1) The Tax Collector shall keep appropriate records of said funds. The Tax Collector shall pay over to the Clerk of the Circuit Court of Sarasota County all funds received and collected under the provisions of this article, to be credited to the account of the Sarasota County tourist development trust fund.
 - (2) The Tax Collector is hereby specifically authorized and empowered to examine, at all reasonable hours, the books, records, and other papers of all persons who are subject to the provisions of this article in order to determine whether they are collecting the tax or otherwise complying with this article. In the event said person refuses to permit such examination of books, records and other papers by the Tax Collector as aforesaid, he is guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083, or 775.084. The Tax Collector shall have the right to proceed in Circuit Court to seek a mandatory injunction or other appropriate remedy to enforce the right of inspection against the offender as granted by this article.
 - (3) In addition to criminal sanctions, the Tax Collector is empowered and obligated, when any tax becomes delinquent or is otherwise in jeopardy under this article, to issue a warrant for the full amount of the tax due or estimated to be due, with the interest, penalties, and cost of collection, directed to all and singular the sheriffs of the State, and shall cause the warrant to be recorded in the public records of Sarasota County and in any other county of the State where any property of the taxpayer is located. Upon such recording the amount of the warrant shall become a lien on any real or personal property of the taxpayer in the same manner as a recorded judgment. The Tax Collector may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to any Sheriff. The Sheriff shall thereupon proceed in the same manner as prescribed by law for executions and shall be entitled to the same fees for his services in executing the warrant to be collected. The Tax Collector may also have a writ of garnishment to subject any indebtedness due to the delinquent taxpayer by a third person in any goods, money, chattels, or effects of the delinquent taxpayer in the hands, possession, or control of the third person in the manner provided by law for the payment of the tax due. Upon payment of the execution, warrant, judgment, or garnishment, the Tax Collector shall satisfy the lien of record within 30 days and remit the fees for recording and execution services to the Clerk of the Circuit Court and the Sheriff. The Tax Collector shall prescribe and publish such forms as may be necessary to effectuate the purposes of this article.
 - (4) All penalties and interest imposed by this article shall be payable to and collectible by the Tax Collector in the same manner as if they were a part of the tax imposed.
 - (5) In the event any person required hereunder to make any return or to pay the tax imposed by this article fails or refuses to make his records available for inspection so that no audit or examination has been made of the books and records of such person, fails or refuses to register as a dealer, fails to make a report and pay the tax as provided by this article, makes a grossly incorrect report or makes a report that is false or fraudulent, then, in such event, it shall be the duty of the Tax Collector to make an assessment from an estimate based upon the best

information then available for the taxable period, together with interest, plus penalty. Then the Tax Collector shall proceed to collect such tax, interest, and penalty on the basis of such assessment, which shall be considered prima facie correct, and the burden to show the contrary shall rest upon the person from whom the same is due.

- (d) The Clerk of the Circuit Court of Sarasota County, acting as clerk and auditor to the Board of County Commissioners, shall perform the audit functions associated with the collection and remission of the tax, including, without limitation, the following:
 - (1) The Clerk 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 Clerk is not required to give 60 days' prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit. Such written notification shall contain:
 - a. The approximate date on which the auditor is scheduled to begin the audit.
 - b. The reminder that all of the records, receipts, invoices, and related documentation of the taxpayer must be made available to the auditor.
 - c. Any other requests or suggestions the Clerk may deem necessary.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.
 - (2) The requirement in subsection (d)(1) of this section of 60 days' written notification does not apply to the delinquent or jeopardy situations referred to in subsection (c)(3) of this section.
- (e) The tax imposed by this article 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 21st day of such month. All returns postmarked after the 20th day of such month are delinquent.
- (f) Pursuant to F.S. § 125.0104(10)(c), Sarasota County reserves unto itself any power granted in F.S. § 125.0104 to the Florida Department of Revenue to determine the amount of tax, penalties, and interest to be paid by all persons subject to the provisions of this article and to enforce payment of such tax, penalties, and interest.
- (g) A maximum of three percent of the tax collected herein shall be retained for costs of administration. Said percent total shall be apportioned between the Tax Collector and the Clerk of the Circuit Court as determined and budgeted annually by the Board of County Commissioners.

(Ord. No. 87-134, § 2, 12-8-1987; Ord. No. 92-019, § 2, 3-10-1992; Ord. No. 94-098, § 1, 12-13-1994)

Sec. 114-63. - County Tourist Development Council.

- (a) Pursuant to F.S. § 125.0104(4)(e), the Board of County Commissioners of Sarasota County hereby establishes the Sarasota County Tourist Development Council, hereinafter referred to as the "TDC."
- (b) The initial members of the TDC and their respective initial terms of office were prescribed in Sarasota County Resolution No. 86-417, as amended. The Board of County Commissioners shall fill vacancies on the TDC as vacancies occur. The members of the TDC shall serve for staggered terms of four years. Service is limited to three consecutive four-year terms (12 years). After an absence of one year, a former TDC member is eligible to apply for reappointment.
- (c) TDC members shall meet at least once each quarter or at such other times as may be either set forth in the TDC bylaws or scheduled at the call of the Chair. The TDC 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 and perform such other duties or functions as may be prescribed by County ordinance or resolution.

- (d) The TDC shall continuously review expenditures of revenues from the tourist development trust fund and shall receive, at least quarterly, expenditure reports from the Board of County Commissioners, or its designee. Expenditures which the TDC believes to be unauthorized shall be reported to the Board of County Commissioners and Department of Revenue. The Board of County Commissioners and Department of Revenue shall review the TDC's findings and take appropriate administrative or judicial action to ensure compliance with this article and the provisions of F.S. § 125.0104.
- (e) The TDC shall be composed of 13 members, who shall be appointed by the Board of County Commissioners. The composition of the TDC shall be as follows:
 - (1) The Chairman of the Board of County Commissioners, or any other member of the Board of County Commissioners as designated by the Chairman, shall be the Chairman of the TDC.
 - (2) Four members of the TDC shall be elected municipal officials, one from each of the four incorporated municipalities within Sarasota County.
 - (3) Eight members of the TDC shall be persons who are involved in the tourist industry and who have demonstrated an interest in tourist development, of which members not fewer than four nor more than five shall be owners or operators of motels, hotels, recreational vehicle parks, or other tourist-related accommodations in Sarasota County and subject to the tax.
 - (4) All members of the TDC shall be electors of Sarasota County.
- (f) All meetings shall be public, and no business shall be transacted except in compliance with the Florida Sunshine Law, F.S. § 286.011. The cost of advertising the meetings of the TDC shall be paid by Sarasota County. The TDC shall not, with the exception of advertising and clerical costs for meetings, incur any expenses or obligations to be paid or performed by the County.
- (g) Any provisions of Resolution No. 86-417 in conflict with this section are hereby rescinded.

(Ord. No. 87-134, § 3, 12-8-1987; Ord. No. 96-071, § 3, 11-12-1996; Ord. No. 2004-032, § 3, 2-25-2004; Ord. No. 2010-049, § 2, 6-23-2010; Ord. No. 2011-048, § 3, 7-26-2011; Ord. No. 2011-063, § 2, 10-12-2011)

Cross reference— Administration, ch. 2.

Sec. 114-64. - Tourist development plan.

- (a) The provisions of this Tourist Development Plan shall govern the allocation and expenditure of the Initial Two Percent Levy authorized pursuant to section 114-61(a) herein and F.S. § 125.0104(3)(c), the allocation and expenditure of the First Additional One Percent Levy authorized pursuant to section 114-61(b) herein and F.S. § 125.0104(3)(d), the allocation and expenditure of the Second Additional One Percent Levy authorized pursuant to section 114-61(c) herein and F.S. § 125.0104(3)(l), the allocation and expenditure of the Additional One-Half Percent Levy authorized pursuant to Section 114-61(d) herein and F.S. § 125.0104(3)(n), and the allocation and expenditure of the Second Additional One-Half Percent Levy authorized pursuant to section 114-61(e) herein and F.S. § 125.0104(3)(n). The provisions of the Tourist Development Plan as presented in this section 114-64 shall prevail in the case of any conflict with the language of Exhibit A to Ordinance No. 87-134, as amended.
- (b) The Tourist Development Plan shall not be substantially amended except by an ordinance enacted by an affirmative vote of a majority plus one additional member of the Board. All determinations as to use of the TDT revenues designated for "any lawful use" shall be made by an affirmative vote of a majority plus one additional member of the Board. All determinations as to use of the TDT revenues allocated to "tourism capital projects and events that attract new visitors" pursuant to section 114-64(f) shall be made by a simple majority vote of the Board; provided, however, use of this allocation for a capital project shall require an affirmative vote of a majority plus one additional member of the Board.

- (c) Any expenditure of funds by the Tourist Development Council (TDC) must be approved by the Board.
- (d) Tourist tax revenues from the Initial Two Percent Levy authorized by section 114-61(a) herein and F.S. § 125.0104(3)(c) shall be allocated as provided in this subsection:

- (1) Fifty percent of the annual revenues generated by the Initial Two Percent Levy shall be allocated to Beach Maintenance Beach Restoration, Beach Renourishment, and Beach Erosion Control for beaches and maintenance of beach park facilities. Such tourist tax revenues will be available only to those governmental entities with posted public beaches and beach accesses. The distribution of tax revenues for beaches will be determined using the same formula presently in effect for distribution of gas revenues, which is population based. Notwithstanding this formula, any municipality that has establishments within its boundaries that cumulatively collect 15 percent or greater of the total annual tourist tax revenue shall receive a minimum distribution of \$150,000.00 in the subsequent fiscal year. Any shortfall between the gas tax formula distribution to such municipality and the \$150,000.00 shall be contributed by Sarasota County from the beach allocation distributed to unincorporated Sarasota County.
- (2) Twenty-five percent of the annual revenues generated by the Initial Two Percent Levy, \$23.7 million of which shall be used to finance the renovation of the Ed Smith Stadium and/or the construction of a sports stadium and ancillary facilities (\$18.7 million Net Present Value from proposed bond issue, \$2 million in accumulated TDT revenues for any lawful use, \$3 million to repay interfund transfers of non-tax revenues) and the balance for any future capital repairs or improvements to the stadium (the "Stadium Allocation"); provided, however that the Stadium Allocation is conditioned upon (1) the execution of an Agreement between the County and a major league baseball team detailing the responsibilities and obligations of the parties with respect to the renovation and/or construction, financing, maintenance and operation of a sports stadium and ancillary facilities, including parking, and (2) the execution of an agreement between the City of Sarasota and the County providing for the transfer of ownership of the Ed Smith Stadium site to the County at nominal cost, and transfer of accumulated Office of Tourism Trade & Economic Development ("OTTED") funds and OTTED bond proceeds to the County in an amount estimated to be not less than \$7.5 million.

Further, following issuance of the bonds for renovation and/or construction of a sports stadium, TDT revenues shall be set aside annually in an amount sufficient to cover debt service for that year until such time as the bonds have been fully redeemed. In addition, TDT revenues collected in excess of the debt service for any given year shall be used first to fund the County's annual contribution to the County Capital Repair and Improvements Fund in accordance with Spring Training Facility Memorandum of Understanding, Contract No. 2009-399, for capital repairs and improvements to the stadium and the balance, if any, to tourism capital projects and events that attract new visitors.

In the event the conditions precedent set forth in this subsection are not satisfied or the Stadium Allocation is declared to be void by a court of competent jurisdiction, that portion of the Initial Two Percent Levy set aside for the Stadium Allocation shall be used by the County for any lawful use authorized in F.S. § 125.0104, as determined by the Board pursuant to section 114-64(b) herein.

- (3) Twenty-five percent of the annual revenues generated by the Initial Two Percent Levy shall be allocated to the construction, operation and maintenance of aquatic nature centers and ancillary facilities, with activities including, but not limited to, rowing and boating, and costs associated with aquatic events held at the aquatic nature centers or the ancillary facilities.
- (e) For purposes of section 114-64 the term "Beach Maintenance" shall mean any activity necessary to maintain a clean and safe beach, public beach park, public beach access. Specific uses of the Beach Maintenance allocation set forth in this section 114-64 include:
 - (1) Removal of litter and trash, addition of trash receptacles, installation of beach mats to ensure public ADA access.

- (2) Maintenance and purchase of beach maintenance equipment (e.g., tractors, surf rakes, vehicles, all terrain vehicles, loaders, dump trucks, hand tools and implements).
- (3) Maintenance of and improvements to beach structures, including restroom facilities, picnic shelters, pavilions, lifeguard structures, decks, sidewalks, irrigation, dune and revetment walkovers, fencing, and maintenance facilities and construction or purchase of maintenance buildings and sheds (exclusive of concession areas leased to private operators, parking lots and utility costs).
- (4) Clearing of vegetative obstructions to shoreline access, removal of nuisance/invasive vegetation and wildlife, removal of beach shoreline obstructions; beach cleaning and grooming to remove wrack line debris (e.g., red drift algae, dead fish).
- (5) Informational signage and maintenance related to events programming to ensure that a clean and safe beach, public beach park, or public beach access is maintained.

This section shall supersede all other previously adopted Board policies with respect to use of TDT revenues for Beach Maintenance.

- (f) The expenditure of revenue from the First Additional One Percent Levy imposed pursuant to Section 114-61(b) and F.S. § 125.0104(3)(d) shall be allocated ten percent to advertising/promotion, fifty percent to Beach Renourishment, Beach Restoration and Beach Erosion Control, twenty percent to Beach Maintenance, and twenty percent to tourism capital projects and events that attract new visitors. The Beach Maintenance allocation under this subsection, effective October 1, 2009, shall be reviewed by the Board every two years.

The Beach Renourishment, Beach Restoration and Beach Erosion Control allocation under this subsection shall be used for beaches located within unincorporated Sarasota County. On a case-by-case basis, these funds may be used, at the Board's discretion, for the beaches located within Sarasota County municipal jurisdictions upon a showing by the requesting municipality of extenuating and unusual circumstances not reasonably foreseeable. Prior to funding any non-County projects, the funding needs associated with County planned projects will be considered.

The following definitions shall apply to this Section 114-64:

- (1) Beach Restoration includes the addition of sand to control beach erosion; the removal of shoreline obstructions and shoreline armoring that may interfere with natural coastal processes; restoration of coastal ecosystems through the removal of invasive/nuisance plants and/or wildlife and/or planting of appropriate native vegetation; restoration of native coastal dunes, wetland or coastal hammock habitat.
 - (2) Beach Renourishment is the process of replenishing a beach with sand. It may be brought about naturally by longshore transport along the shoreline, or artificially by the deposition of dredged or mined materials.
 - (3) Beach Erosion Control is any means to control the wearing away of a shoreline by natural or man-made processes. Examples of beach erosion control include nourishment; creation and/or planting of a dune or other native coastal habitat; coastal armoring such as a bulkhead, rock revetment, soil-cement revetment; installation of a groin, geo-textile tube, sand bypass system, or other such technology; dune and revetment walkovers; the use of best management practices to control siltation.
- (g) The expenditure of revenue from the Second Additional One Percent Levy imposed pursuant to section 114-61(c) and F.S. § 125.0104(3)(l) shall be allocated 100 percent to advertising/promotion designed to promote tourism in Sarasota County.
 - (h) The expenditure of revenue from the Additional One-Half Percent Levy imposed pursuant to section 114-61(d) herein and F.S. § 125.0104(3)(n) shall be allocated 100 percent to cultural and fine arts activities, services, venues or events which have, as one of their main purposes, the attraction of tourists as evidenced by the promotion of the activity, service, venue or event to tourists.

- (i) The expenditure of revenue from the Second Additional One-Half Percent Levy imposed pursuant to section 114-61(e) herein and F.S. § 125.0104(3)(n), shall be allocated 100 percent to advertising/promotion.
- (j) The following provisions apply to the allocation of TDT revenues to advertising/promotion:
 - (1) The Board shall appoint an existing organization within the community, or establish a tourism board, made up of qualified members of the community, for purposes of coordinating all tourist development activities on behalf of the County.
 - (2) Tax revenues should be used for media purchases, travel trade shows, and the general promotion of Sarasota County.
 - (3) No revenues shall be allocated specifically for salaries. However, it is recognized that contracted services to the County by the appointed tourist promotion organization for management services can include appropriate salary expenses.
 - (4) The County will pay for administrative expenses incurred by such organization, up to a maximum of the lesser of \$50,000.00 or five percent of the portion of TDT which is allocated to tourist promotion activities during any fiscal year.
- (k) The following provisions apply to the allocation of TDT revenues to the cultural and fine arts:
 - (1) The Board may appoint an arts board, made up of qualified members of the community familiar with both the visual and performing arts, or identify an existing group within the community, either of whom would be responsible for recommending to the TDC a variety of grants for artist fees, production and/or exhibition costs.
 - (2) No revenues shall be allocated specifically for salaries relating to the group which distributes the grant monies on behalf of the arts. However, it is recognized that contracted services to the County by an appointed arts organization for management services can include appropriate salary expenses.
 - (3) The County will pay for administrative expenses incurred by such appointed arts board or group, up to a maximum of the lesser of \$25,000.00 or five percent of the portion of TDT which is allocated to arts and cultural activities during any fiscal year.
- (l) Tourist tax disbursements to the Town of Longboat Key. For the 20 fiscal years beginning October 1, 1998, and ending September 30, 2018, the annual disbursement of tourist development tax to the Town of Longboat Key will equal the Town's annual actual total tourist tax collections of 50 percent of the Initial Two Percent Levy as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (the 20 fiscal years beginning October 1, 1996, and ending September 30, 2016, respectively) for beach renourishment use. The annual disbursement for beach renourishment will be funded from the tourist development tax revenue allocation to the Town of Longboat Key from the Initial Two Percent Levy, pursuant to section 114-64(d)(1) herein, and, as needed, a portion of the First Additional One Percent Levy allocated for beach renourishment, pursuant to Section 114-64(f) herein. In addition, for the fiscal year beginning October 1, 2013, the Town of Longboat Key will receive the Town's annual actual tourist tax collections of 20 percent of the First Additional One Percent Levy allocation for Beach Maintenance, as determined by the Sarasota County Tax Collector for the fiscal year prior to the year in which the budget is prepared (fiscal year beginning October 1, 2011) for beach maintenance use. The annual disbursement for beach maintenance will be paid and funded from the tourist development tax revenue allocation of 20 percent of the First Additional One Percent Levy for Beach Maintenance for as long as that allocation is in effect pursuant to Section 114-64(f) herein.

(Ord. No. 87-134, § 4, 12-8-1987; Ord. No. 96-071, § 4, 11-12-1996; Ord. No. 2003-046, § 3, 5-13-2003; Ord. No. 2006-061, § 2, 9-13-2006; Ord. No. 2008-026, § 3, 2-12-2008; Ord. No. 2008-101, § 3, 9-10-2008; Ord. No. 2009-038, § 3, 7-22-2009; Ord. No. 2010-012, § 3, 2-19-2010; Ord. No. 2010-076, § 4, 10-13-2010; Ord. No. 2011-040, § 2, 6-28-2011; Ord. No. 2013-

014, § 2, 4-24-2013; Ord. No. 2013-027, § 2, 9-25-2013; Ord. No. 2014-039, § 2, 5-21-2014; Ord. No. 2014-051, § 2, 7-9-2014; Ord. No. 2016-001, § 2, 3-8-2016)

Sec. 114-65. - Penalties, liens, and interest.

- (a) 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 a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.
- (b) 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 provision of this subsection shall be guilty of a misdemeanor of the first degree, punishable as provided in F.S. § 775.082, 775.083 or 775.084.
- (c) 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 F.S. §§ 713.67, 713.68 and 713.69.
- (d) Any person violating or who is deemed to have violated any section of this article or any provision of any section of this article shall be punished as provided for by law.
- (e) When any person required hereunder to make any return or to pay the tax imposed by this article fails to timely file such return or fails to pay the tax due within the time required hereunder, in addition to all other penalties provided herein, a specific penalty shall be added to the tax in the amount of ten percent of any unpaid tax if the failure is for not more than 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. In no event may the penalty be less than \$10.00 for failure to timely file a tax return required by this article. In the case of a false or fraudulent return or a willful intent to evade payment of the tax imposed hereunder, in addition to the other penalties provided by law, the person making such false or fraudulent return or willfully attempting to evade the payment of the tax shall be liable for a specific penalty of 100 percent of the tax due. The foregoing penalties in this subsection (e) shall at all times be equivalent to those due the Florida Department of Revenue for the same infractions pursuant to F.S. ch. 212, as amended from time to time, and each such amendment shall be incorporated into this article by reference.
- (f) 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 of one percent per month of the amount due from the date due until paid. Interest on the delinquent tax shall be calculated beginning on the 21st day of the month following the month for which the tax is due.
- (g) A taxpayer's liability for any tax or interest provided hereunder may be compromised by the Tax Collector upon the grounds of doubt as to liability for or collectibility of such tax or interest. A taxpayer's liability for any penalties provided hereunder may be settled or compromised if it is determined by the Tax Collector that the noncompliance is due to reasonable cause and not to willful neglect or fraud. The Tax Collector shall maintain records of all compromises, and the records shall state the basis of the compromise. As provided by F.S. § 213.21, the records of compromise shall not be subject to disclosure pursuant to F.S. § 119.07(1), and shall be considered confidential information governed by the provisions of F.S. § 213.053.

(Ord. No. 87-134, § 5, 12-8-1987; Ord. No. 92-019, § 3, 3-10-1992; Ord. No. 94-098, § 2, 12-13-1994)

Sec. 114-66. - Severability.

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 article is for any reason 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 portions.

(Ord. No. 87-134, § 12, 12-8-1987)

Secs. 114-67—114-90. - Reserved.