

ORDINANCE NO. 93-44

AN ORDINANCE OF POLK COUNTY, FLORIDA, AMENDING ORDINANCE 86-27, (THE TOURIST DEVELOPMENT TAX ORDINANCE), AS AMENDED; ESTABLISHING A NEW SECTION WHICH PROVIDES FOR THE LOCAL ADMINISTRATION OF THE TAX; DESIGNATING THE TAX COLLECTOR AS THE LOCAL OFFICIAL TO WHOM THE TAX SHALL BE REMITTED; PROVIDING FOR THE POWERS AND DUTIES OF THE TAX COLLECTOR; PROVIDING CERTAIN ADDITIONAL DETAILS WITH RESPECT TO THE ADMINISTRATION AND COLLECTION OF THE TOURIST DEVELOPMENT TAX; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 30, 1986, the Polk County Board of County Commissioners passed and duly adopted Polk County Ordinance 86-27 implementing the Local Option Tourist Development Act provided under Section 125.0104, Florida Statutes; and

WHEREAS, Ordinance 86-27 has subsequently been amended by Polk County Ordinance 90-13 and 92-28, to extend and amend the Polk County Tourist Development Plan, to impose an additional One Cent (1) Tourist Development Tax and otherwise comply with the requirements of Section 125.0104, Florida Statutes; and

WHEREAS, Section 125.0104, Florida Statutes, has been amended to provide for the local administration of the tax; and

WHEREAS, the Tourist Development Council (TDC) has recommended to the Board of County Commissioners and the Board of County Commissioners has determined that it is in the best interest of Polk County to provide for the local administration of the tax,

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA, as follows:

1. Ordinance 86-27 shall be amended to provide a new Section 8 as follows:

SECTION 8. LOCAL ADMINISTRATION OF THE TAX.

(a) Notwithstanding any provisions herein to the contrary,

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(10).

(b) Initial collection of the tax shall be made in the same manner as the tax imposed under Part I of Chapter 212.

(c) The Polk County Tax Collector, hereafter call "Tax Collector," shall be responsible for the collection and administration of the tax. The person receiving the consideration 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. 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 the payment of a dealer's credit in compliance with the rules of the Tax Collector in the administration of Chapter 212 shall apply to and be binding upon all persons who are subject to the provisions of this ordinance; provided, however, the Tax Collector may authorize a quarterly return of payment when the tax remitted for the preceding quarter by the person receiving the consideration for such rental or lease did not exceed \$30.00.

(d) The Tax Collector shall perform the enforcement and audit functions associated with the collection and remission of this tax,

remitted to the Tax Collector. In addition to the statutory criminal sanctions, the Tax Collector is empowered, and is obligated, when any tax becomes delinquent or is otherwise in jeopardy under this ordinance, 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 record the warrant in the public records of the county, and thereupon the amount of the warrant shall become a lien of any real or personal property of the taxpayer in the same manner as a recorded judgment. The Tax Collector may obtain a tax execution to enforce the collection of taxes imposed by this ordinance and deliver it to the 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 obtain a writ of garnishment to subject any indebtedness due to the delinquent dealer by a third person in any goods, money, chattels, or effects of the delinquent dealer 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 department shall satisfy the lien of record within 30 days.

(a) Tax revenues may be used only in accordance with the provision of F.S. 125.0104.

(b) Three (3%) percent of the tax collected herein shall be retained by the Tax Collector for costs of administration. The remainder shall be submitted to the County at least twice a

month, but may be remitted more often at the discretion of the Tax Collector.

(c) The Tax Collector's books and records relating to collections under this Ordinance shall be available for inspection by the County and the Clerk to the Board of County Commissioners at reasonable times.

4. This ordinance shall take effect January 1, 1994.

SECTION 3: Severability. If any subsection, clause, phrase, or portion of this ordinance 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 of this ordinance.

