EMERGENCY ORDINANCE 91-9

AN ORDINANCE TO AMEND ORDINANCE 91-5 RELATING TO THE LEVYING AND COLLECTION OF A TOURIST DEVELOPMENT TAX; PROVIDING FOR THE ADMINISTRATION OF THE TAX; PROVIDING FOR RECEIVING, KEEPING, AND COST OF ADMINISTRATION; PROVIDING FOR SEVERABILITY AND AFFECT.

WHEREAS, Florida Statute 125.0104(10) now provides for local administration of the Tourist Development tax, and

WHEREAS, the Board now desires that this section be imposed by amending Ordinance 91-5 ,

NOW THEREFORE BE IT ORDAINED by the Board of County Commissioners of Walton County that Section 1 of said ordinance is hereby amended to read as follows:

(D) The person receiving the consideration for such rentals or lease shall receive, account for, and remit the tax to the Clerk of the Circuit Court or her appointed representative, acting in her capacity to the Board of County Commissioners at the time and in the manner as described for persons who collect tax under Section 212.03 Florida Statutes. The same duties and privilege imposed by Chapter 212.12, 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 Department of Revenue in the administration of said chapter shall apply to and be binding upon all person who are subject to the provisions of this act; provided, however the said Walton County Board of County Commissioners may authorize a quarterly return and payment when the tax remitted by the dealer for the preceding quarter did not exceed $25.00.

(E) The Clerk of the Circuit Court shall keep records showing the amount of taxes collected, which records shall also include records disclosing the amount of taxes collected for and from each dealer 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 Board of County Commissioners of Walton County, as provided in Sec. 213.072, Florida Statutes.

(F) Collections received by the Clerk of the Circuit Court from the tax, less costs of administration of this ordinance (not to exceed 3 percent of collections) shall be paid to Walton 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 Clerk of the Circuit Court, under the applicable rules of the Board of County Commissioners, is authorized to employ persons and incur other expenses as appropriated by the legislature of the State of Florida to administer this ordinance.

(H) The Clerk of the Circuit Court may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purpose of this ordinance.

(I) The Clerk of the Circuit Court shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:

(1) For the purpose of enforcing the collection for the tax levied by this chapter, Clerk of the Circuit Court is hereby specifically authorized and empowered to examine

at all reasonable hours the books, records, and other documents of all dealer, or other persons charged with the duty to report or pay a tax under this ordinance, in order to determine whether they are collecting the tax or otherwise complying with this ordinance. In the event said dealer refuses to permit such examination of its books, records or other documents by the department as aforesaid, it is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.083. The Clerk of Circuit Court shall have the right to proceed in Circuit Court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section to require an examination of the books and records of such dealer.

(2) Each dealer, as defined in this ordinance, shall secure, maintain, and keep for a period of 3 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 Clerk of the Circuit Court for the reasonable administration of this ordinance; and all such records which are located or maintained in this state shall be open for inspection by the Clerk of the Circuit Court 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 this county must make such books and records available for inspections by the Clerk of the Circuit Court or her representative in Walton County, Florida. Any dealer subject to the provisions of this ordinance, who violates these provisions is guilty of a misdemeanor of the second degree.

(3) (a) The Clerk of the Circuit Court shall send written notification, at least 30 days prior to the date an auditor is scheduled to begin an audit. The Clerk of the Circuit Court is not required to give 30 days prior notification of a forthcoming audit in any instance in which the taxpayer requests an emergency audit.

(b) 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, and relative documentation of the taxpayer must be made available to the auditor.

3. Any other requests or suggestions the Clerk may deem necessary.

(c) 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.

(4) All taxes collected under this ordinance shall be remitted to the County Tourist Development Council Trust Fund. In addition to criminal sanctions, the Clerk of the Circuit Court is empowered, and it shall be its duty, when any tax becomes deliquent 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 Clerk of the Circuit Court may issue 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 Clerk of the Circuit Court may also have a writ of garnishment to the subject any indebtedness due to the delinquent dealer by a third party 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 clerk shall satisfy the lien of record within 30 days.

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

(g) The tax collected shall be submitted to the county on a monthly basis.

Section 3. Severability

The provisions of this ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this ordinance shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this ordinance. It is hereby declared to be the legislative intent that this ordinance would have been adopted has such unconstitutional provisions not been included therein.

Section 4. Effective date

This ordinance shall take effect upon receipt of official acknowledgement from the Office of the Secretary of State of the State of Florida that said ordinance has been filed in that office.

PASSED AND ADOPTED this the 30th day of July, 1991.

WALTON COUNTY, a political subdivion of the State of Florida

BY: Sam Pridgen
SAM PRIDGEN, Chairman

ATTEST:

for Martha Ingle
CATHERINE KING, Clerk