



Agenda Report

2725 Judge Fran Jamieson
Way
Viera, FL 32940

Public Hearing

H.8.

10/22/2019

Subject:

Amending Chapter 102, Article III, Section 102-119(3), Code of Ordinances of Brevard County

Fiscal Impact:

No immediate impact to tourism Development Tax Revenue

Dept/Office:

Tourism Development

Requested Action:

It is requested that the Board of County Commissioners conduct a public hearing and then pass the attached ordinance amending Chapter 102, Article III, Section 102-119(3), Code of Ordinances of Brevard County, Florida, adding language to allow for funding auditoriums that are publicly owned but operated by organizations exempt from Federal taxation pursuant to 26 United States code section 501(C)(3), providing an effective date; providing for area encompassed; and providing for inclusion in the Code of Ordinances of Brevard County Florida, during a public hearing.

Summary Explanation and Background:

On September 17, 2019, the Board approved legislative intent and permission to advertise this ordinance amending Section 102-119(3) of Brevard County Code. This change adds language and authority that is already present in the State Statute, but has not yet been incorporated into the Brevard County Code. It will expand the facilities eligible to apply for a Tourist Development Tax Capital Facilities Grant to include auditoriums that are publicly owned but operated by 501(c)(3) organizations, open to the public and within Brevard County. An example of this type of organization would be the Historic Cocoa Village Playhouse, which is owned by the City of Cocoa and operated by a non-profit organization. Currently, the Brevard County Code only allows Tourist Development Tax revenue to be spent on publicly owned and publicly operated auditoriums. This addition will bring the Brevard County Code in line with the section 125.0104(5)(a)(b), Florida Statutes. The public hearing for this ordinance change was advertised in Florida Today on October 11, 2019.

Clerk to the Board Instructions:

Within 10 days of adoption, Clerk to the Board of County Commissioners to file certified copy of passed ordinance amendment with Department of State.

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October 23, 2019

M E M O R A N D U M

TO: Peter Cranis, Tourism Development Office Director

RE: Item H.8., Ordinance Amending Chapter 102, Article III, Section 102-119(3), Code of Ordinances of Brevard County

The Board of County Commissioners, in regular session on October 22, 2019, adopted Ordinance No. 19-22, amending Chapter 102, Article III, Section 102-119(3), Code of Ordinances of Brevard County, Florida, adding language to allow for funding auditoriums that are publicly owned but operated by organizations exempt from Federal taxation pursuant to 26 United States Code Section 501(C)(3), providing an effective date; providing for area encompassed; and providing for inclusion in the Code of Ordinances of Brevard County, Florida, during a public hearing. Enclosed is a fully-executed Ordinance.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

Tammy Rowe, Deputy Clerk

Encl. (1)



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

October 25, 2019

Honorable Scott Ellis
Clerk
Board of County Commissioners
Brevard County
Post Office Box 999
Titusville, Florida 32781-0999

Attention: Deborah Thomas

Dear Mr. Ellis:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Brevard County Ordinance No. 2019-22, which was filed in this office on October 24, 2019.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

ORDINANCE NO. 2019-22

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF BREVARD COUNTY, FLORIDA, AMENDING CHAPTER 102, ARTICLE III, SECTION 102-119(3), CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA, ADDING LANGUAGE TO ALLOW FOR FUNDING AUDITORIUMS THAT ARE PUBLICLY OWNED BUT OPERATED BY ORGANIZATIONS EXEMPT FROM FEDERAL TAXATION PURSUANT TO 26 UNITED STATES CODE SECTION 501(C)(3); PROVIDING AN EFFECTIVE DATE; PROVIDING FOR AREA ENCOMPASSED; AND PROVIDING FOR INCLUSION IN THE CODE OF ORDINANCES OF BREVARD COUNTY, FLORIDA.

WHEREAS, section 125.0104, Florida Statutes requires the tourist development tax to be levied and imposed pursuant to an ordinance containing the county tourist development plan, enacted by the Board of County Commissioners; and

WHEREAS, Brevard County met all the requirements to authorize the levy and imposition of the tax when the Board of County Commissioners approved the local option tourist development tax by Ordinance 86-25 on August 18, 1986, and the voters approved the tourist development tax by a referendum vote on November 4, 1986; and

WHEREAS, section 125.0104(5)(a)1.b, Florida Statutes allows tourist tax funding to allocated to auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 United States Code section 501(c)(3) and open to the public, within the boundaries of the County in which the tax is levied; and

WHEREAS, Brevard County code 102-119(3)c. only allows tourist tax funding for auditoriums that are publicly owned and operated; and

WHEREAS, the Board desires to update its code to include the expanded flexibility in the state statute.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Brevard County, Florida as follows:

SECTION 1. Chapter 102, Article III, Section 102-119, Subsection 3 of the section entitled, " Budget Plan," Code of Ordinances of Brevard County, Florida is amended, as follows:

- (3) The proposed uses of the tax revenue, generated pursuant to F.S. § 125.0104(3)(c), in order of priority, by special use category, shall be allocated as follows:
 - a. At least 25 percent of the net revenue would be budgeted and disbursed to promote and advertise county tourism in the state, nationally and internationally; however, if tax revenues are expended for an activity, service, venue, or event, the

Officially filed with the Secretary of State on October 24, 2019

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.

- b. Thirty percent of the net revenue would be budgeted and disbursed to finance beach park facilities or beach improvement, maintenance, renourishment and erosion control.
- c. Up to 35 percent of the net revenue in accordance with F.S. § 125.0104(5)(a)1. and (5)(b), would be budgeted and disbursed generally to acquire, construct, extend, enlarge, remodel, repair, improve, maintain, operate or promote one or more publicly owned and operated convention centers, sports stadiums, sports arenas, coliseums, or auditoriums within the county; and further including museums, zoological parks, aquariums, fishing piers or nature centers which are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public within the county; and to further include auditoriums that are publicly owned but are operated by organizations that are exempt from federal taxation pursuant to 26 United States Code section 501(c)(3) and open to the public within the county.
- d. Up to ten percent of the net revenue be budgeted and disbursed to promote county tourism by funding tourist-oriented cultural and special events such as visual and performing arts including theater, concerts, recitals, opera, dance, art exhibitions, festivals and other tourist-related activities.
- e. There shall be an annual amount established by the board of county commissioners for administrative and overhead expenses of the board and council which shall be expended in order to properly coordinate and implement the tourist development plan.
- f. Pursuant to F.S. § 125.0104(4)(d), the above-stated plan may not be substantially amended except by ordinance enacted by an affirmative vote of a majority plus one additional member of the board. The council shall, from time to time, make recommendations to the board for the effective operation of the special projects or for uses of the tax revenue.
- g. The setting forth of the anticipated net revenues to be derived from levying the tax during the first 24 months following levy, as required by the Act, shall in no way be interpreted as indicating an intent by the board, through this article, to in any way limit the plan or the tax to said period and the plan and tax shall continue, once duly enacted, until amended or repealed, according to this article and the Act or until it automatically expires pursuant to F.S. § 125.0104(7), if applicable.

SECTION 2. SEVERABILITY. If any section, subsection, clause, phrase, word or provision of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such invalid unconstitutional 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, provided the remaining portions effectuate purpose and intent of this ordinance.

SECTION 3. CONFLICTING PROVISIONS. In the case of a direct conflict between any provision of this Ordinance and a portion or provision of any other applicable federal, state, or county law, rule, code or regulation, the more restrictive shall apply, unless preempted by law.

SECTION 4. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption and filing as provided by law. A certified copy of this ordinance shall be filed with the Office of the Secretary of State, State of Florida, within ten (10) days of enactment.

SECTION 5. AREA ENCOMPASSED. The area encompassed by the local option tourist development tax is unchanged, including both the incorporated and unincorporated areas of Brevard County, Florida.

SECTION 6. INCLUSION IN THE CODE. It is the intention of the Board of County Commissioners that the provisions of this ordinance be part of the Code of Ordinances of Brevard County, Florida; and that the sections of this ordinance may be renumbered or re-lettered and that the work "ordinance" may be changed to "section," "article," or such other appropriate word or phrase in order to accomplish such intentions. To facilitate access to individuals with disabilities, the sections of the code will be amended to spell out abbreviations and acronyms such as "§" to section and "Fla. Stat." to Florida Statutes.

Adopted by the Brevard County Board of County Commissioners during regular session on the 22 day of Oct., 2019.

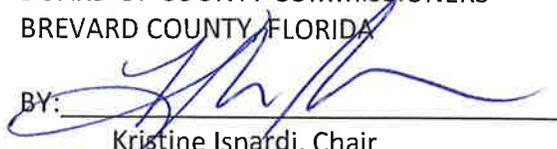
ATTEST:



Clerk

BOARD OF COUNTY COMMISSIONERS
BREVARD COUNTY, FLORIDA

BY:



Kristine Isnardi, Chair

As approved by the Board on 10/22/19