

ORDINANCE NO. 14-08

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF OKALOOSA COUNTY, FLORIDA, AMENDING CHAPTER 20, ARTICLE II OF THE OKALOOSA COUNTY CODE OF ORDINANCES AND ORDINANCE 89-23 AS SUBSEQUENTLY AMENDED, RELATING TO THE TOURIST DEVELOPMENT PLAN AND USE OF TOURIST DEVELOPMENT TAX REVENUE; MAKING FINDINGS; AMENDING THE COUNTY'S TOURIST DEVELOPMENT PLAN TO PROVIDE FOR THE FUNDING OF AQUARIUMS AND MUSEUMS WITHIN THE SUB-COUNTY TAXING DISTRICT; MODIFYING THE AUTHORIZED USES OF TOURIST DEVELOPMENT TAX REVENUES ACCORDINGLY; UPDATING REVENUE PROJECTIONS AND ALLOCATIONS; PROVIDING FOR CODIFICATION, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to section 125.0104, Florida Statutes, known as the "Local Option Tourist Development Act", the Board of County Commissioners ("Board") adopted Ordinance 89-23 (the "Tourist Development Ordinance") in 1989 which authorized the collection of two cents of tourism development tax per dollar exchanged on certain short term lodging rental transactions within an described sub-county tourism development district, authorized a referendum for approval of imposition of the tax, created the County's initial Tourist Development Plan (the "Plan"), and established the Okaloosa Tourist Development Council (the "Council"); and

WHEREAS, the Tourist Development Ordinance, as subsequently amended, is codified in Chapter 20, Article II of the Okaloosa County Code of Ordinances; and

WHEREAS, the Board desires to expand the goals and objectives contained in the existing Plan to provide for the funding of aquariums and museums within the sub-county taxing district and to update the projected tourist development tax revenues; and

WHEREAS, the Council has submitted to the Board a recommended amendment to the Tourist Development Ordinance and the Plan contained therein; and

WHEREAS, in order to effectuate these changes the Board hereby finds that it is necessary to amend Ordinance 89-23, as subsequently amended, and Chapter 20, Article II of the Okaloosa County Code of Ordinances.

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

SECTION 1. Ordinance 89-23, as subsequently amended, and Chapter 20, Article II of the Okaloosa County Code of Ordinances is hereby amended as follows:

(~~strieken~~ words indicate deletions, underlined words indicate additions)

Sec. 20-71. Tax levied; collection; remittance.

- (a) There is hereby levied and imposed a tourist development tax in the hereinafter described sub-district of Okaloosa County, Florida, at the rate of five percent of each whole and major fraction of each dollar of the total rental 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 motel, rooming house, mobile home park, recreational vehicle park, condominium, condominium hotel or campground for a term of six months or less (the "dealer"). 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 the non-monetary consideration.
- (b) The tourist development tax shall be in addition to any other tax imposed pursuant to Chapter 212, Florida Statutes, and in addition to all other taxes, fees, and the considerations for the rental or lease.
- (c) The tourist development tax 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.
- (d) The person receiving the consideration for such rental or lease shall receive, account for, and remit the tax to the board of county commissioners (the "board") at the same time and in the manner provided for persons who collect and remit taxes under Section 212.03, Florida Statutes. 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, the payment of a dealer's credit, and compliance with the rules of the Okaloosa County Tax Collector (the "tax collector") in the administration of said chapter shall apply to and be binding on all

persons who are subject to the provisions of this article; provided, however, the tax collector may authorize a quarterly payment when the tax remitted by the dealer for the preceding quarter did not exceed \$25.00.

- (e) The tax collector shall keep records showing the amount of taxes collected, which records shall be open to the public during the regular office hours of the tax collector, subject to the provisions of Section 213.053, Florida Statutes.
- (f) Collections received by the tax collector, less costs of administration of this article, shall be paid on a monthly basis, to the board for use by the county in accordance with the provisions of this article and shall be placed in the county tourist development trust fund.
- (g) The tax collector is authorized to employ persons and incur other expenses necessary to administer this article.
- (h) The tax collector may promulgate such rules and may prescribe and publish such forms as may be necessary to effectuate the purpose of this article.
- (i) The tax collector shall perform the enforcement and audit functions associated with the collection and remission of this tax, including, without limitation, the following:
 - (1) a. For the purpose of enforcing the collection of the tax levied by this article, the tax collector is hereby specifically authorized and empowered to examine at all reasonable hours the books, records, and other documents of all dealers, 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.
 - b. In the event such dealer refuses to permit such examination of its books, records, or other documents by the tax collector as aforesaid, such dealer is guilty of a misdemeanor of the first degree, punishable as provided in Sections 775.082, 775.083, or 775.084, Florida Statutes. The tax collector shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce his right against the offender, as granted by this section, to require an examination of the books and records of such dealer.
- (2) a. Each dealer, as defined in this article, shall secure, maintain, and keep for a period of three years, a complete record of rooms or other lodging, leased or rented by the dealer, together with gross receipts from such sales, and other

pertinent records and papers as may be required by the tax collector for the reasonable administration of this article; and all such records which are maintained in this state shall be open for inspection by the tax collector at all reasonable hours at such dealer's place of business located in the county.

b. Any dealer who maintains such books and records at a point outside the county must make such books and records available for inspection by the tax collector. Any dealer subject to the provisions of this article who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in Sections 775.082, 775.083, or 775.084, Florida Statutes.

(3) a. The tax collector shall send written notification, at least 30 days prior to the date an auditor is scheduled to begin an audit. The tax collector 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, invoices, and related documentation must be made available to the auditor.
3. Any other requests or suggestions the tax collector 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 article shall be remitted to the board of county commissioners, attention: Finance officer.

(5) a. In addition to criminal sanctions, the tax collector is empowered, and it shall be his duty, 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 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 on any real or personal property of the taxpayer in the same manner as a recorded judgment.

- b. The tax collector may issue a tax execution to enforce the collection of taxes imposed by this article and deliver it to the sheriff. The sheriff shall then 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.
 - c. The tax collector may also have 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 tax collector shall satisfy the lien of record within 30 days.
- (j) Tax revenues may be used only in accordance with the provisions of Section 125.0104, Florida Statutes.
- (k) Three percent of the tax collected herein shall be retained by the tax collector for costs of administration. The remainder of the tax shall be deposited in the county tourist development trust fund on a monthly basis.

Sec. 20-72. Tourist development plan.

- (a) *Revenue projections.* The tax revenues pursuant to this section for the next fiscal year and thereafter until amended by the board shall be used to fund the Okaloosa County Tourist Development Plan, which is hereby adopted as follows:

The anticipated annual revenues to be produced by the tourist development tax as identified herein in parenthesis for each budget category is provided as an annual total based on past collection trends projected forward. The projected revenues are estimates and may vary from those identified herein. The amounts shown have already been reduced by the costs of administration retained by the tax collector.

- (b) *Taxing district boundaries.* The geographic area included within the county's sub-district is depicted on Exhibit A, as attached hereto and incorporated herein.
- (c) *County tourist development plan.* The county hereby determines that the tourist development plan for the sub-district shall be comprised of the following broad goals and objectives and makes the following findings of fact:

- (1) *Tourism promotion.* The tourism related economy within Okaloosa County generates significant direct and indirect revenue to businesses within the community. Accordingly, tourism is essential to a healthy economy and is a driving force in the growth of business development and increased employment opportunities for county residents. The county has worked diligently on the development and maintenance of quality advertising, sales, marketing and public relations initiatives for the sub-district which presents a consistent and positive brand for the area. This branding is essential to the development of this section of the economy and the county will work towards the development and implementation of unified marketing campaigns. These campaigns will be monitored and analyzed by the tourist development council (the "council"), the director and tourist development department staff with, at a minimum, quarterly reports provided to the board. Within the guidelines set forth herein, the campaigns shall be conducted with funding levels designed to achieve maximum positive promotional exposure to potential visitors to the sub-district. The primary objective for the campaigns shall be the maintenance of consistent positive "branding" which consists of image and name recognition and the further development of "year round business" to encompass group and leisure business.

The support for a variety of special events and sponsorships is another productive means to further the development of year round business and bolster image and name recognition for the sub-district. Funds may be allocated on an annual basis, as approved by the board, for support of special events and sponsorships in accordance with procedures provided in the adopted tourist development council bylaws and tourist development department operation and procedures manual. The development of a visible support community for local production of film and advertising projects may also be a productive means to further maintain a consistent positive "branding" of both the sub-district and the county overall. Funds may be allocated to support such projects.

The county determines that continuing maintenance efforts to keep the beaches, waterways, access ways and other recreational and eco-tourism facilities within the sub-district ("tourist destination facilities"), clean, attractive and safe for public usage are important to the image and marketing of the primary asset of the sub-district and may include a mechanical beach cleaning program for all Gulf beaches within the sub-district outside of those owned or controlled by the federal government. This also includes the maintaining of the aesthetics of access

corridors within the sub-district so as to provide a consistent positive branding for the area.

The county further determines that funding aquariums and museums that are publicly owned and operated or owned and operated by not-for-profit organizations and open to the public, within the sub-district will promote tourism within the sub-district by offering educational activities and entertainment for visitors of all ages. Thus, the allocation of tourist tax revenues for the funding of aquariums and museums is an appropriate use of these revenues and funds may be allocated accordingly.

- (2) *Convention business development.* The county has operated the Emerald Coast Convention Center ("ECCC") since 2003 and its value as a catalyst for the growth of the conference/convention/group business segment of the visitor population is well established and is an effective means of developing year round business in the sub-district. The ECCC will continue to be managed in house or by contract with professional management firms, or by a combination of the two. The facility will also provide indoor and outdoor venues for cultural, educational, sport and entertainment events which will be a positive draw for visitors as well as a benefit to the overall quality of the branding of county products. The expansion of the ECCC facilities, grounds and functions will further the development of year-round business in the sub-district.
- (3) *Product improvement.* The county determines that the beaches and waters of the Gulf of Mexico and the Choctawhatchee Bay are the focus of the attraction that the sub-district offers to our visitors. This includes not only the beach and waterways themselves but the tourist destination facilities, which allow greater access and enhanced enjoyment of these areas. Accordingly, both the maintenance and improvement of these natural assets and other tourist destination facilities, including the improvement of public access to and use of these assets, are essential to the preservation, improvement and promotion of the very foundation of the economy that the county is promoting.

The long-term maintenance goals of this plan also include the use of tourism tax revenues as a part of an ongoing partnership between federal, state and county and municipal entities for the restoration and re-nourishment of the beaches within the sub-district. The county will continue to fund the permitting and construction of restoration and re-nourishment projects for beaches within the sub-district. This will facilitate the dual goal of this long-term restoration plan and preservation and

management of the county's waterfront resources and other tourist destination facilities within the sub-district, including the improvement of public access to those resources and facilities throughout the sub-district. This component of beach access improvement and beach restoration and monitoring is essential for ensuring access for visitors utilizing non-waterfront accommodations. The maintenance of beach access facilities and other tourist destination facilities promotes a broader accommodation base by improving access for non-waterfront accommodations. Accordingly, the allocation of tourist tax revenues for the improvement, maintenance and repair of our beaches and waters and other tourist destination facilities, including access to these facilities, is an appropriate use of these revenues when and if funding is available.

The county further determines that constructing artificial reefs will promote tourism within the sub-district by offering diving, snorkeling and fishing activities. Additionally, the construction of artificial reefs will enhance the waters of the Gulf of Mexico by providing increased fisheries and improved aquatic habitat. Once enough artificial reefs are constructed, the county may develop an aquatic nature center as an eco-tourism facility to showcase these tourism activities and assets. Thus, the allocation of tourist tax revenues for the construction of artificial reefs is an appropriate use of these revenues and funds may be allocated accordingly.

An essential component of product improvement and promotion is to provide a safe environment for the use of the beaches, waters and facilities. Therefore, the allocation of tourist development tax revenues for the provision of lifeguard services for the beaches and waterways is an appropriate use of these revenues when and if funding is available.

- (4) *Administration.* The county determines that the best means for administration of the tourism tax revenues allocated under this plan is local administration by the director of the tourist development department under the direction of the county administrator. The administration of the revenue collection process shall be carried out under an agreement with the tax collector's office.
- (5) *Reserve or emergency operations fund(s).* The county determines that it is prudent, based on actuarial and actual experience, to maintain reserve funds for the purpose of supplementing standard promotional functions and beach maintenance efforts and for restoration of the county's beach improvements in the aftermath of a major storm event which impacts sub-district coastal areas. These

reserve amounts should be carried forward as a budget allocation from year to year and should be in sufficient amount, as determined by the board, to address recovery needs in these areas in the case of a catastrophic storm event. These funds are also available for allocation in the case of extraordinary beach maintenance needs related to natural or man-induced events requiring additional beach cleaning efforts and equipment following the impact of an emergency event. The council, through the director, will be responsible for recommending to the board when and how these funds should be used in the event of an emergency or catastrophic storm event.

(d) *Tax revenue projections and allocations.* Pursuant to the requirements of Section 125.0104(4), Florida Statutes, the tax revenues collected pursuant to this section shall be used to fund the goals and uses identified in the Okaloosa County Tourist Development Plan as set forth above. The allocation shall begin Fiscal Year ~~2013-2014~~ 2014-2015 and shall continue for subsequent fiscal years until amended by the board.

(1) For the revenues generated by the first percentage point on each dollar, for each year beginning with fiscal year ~~2013-2014~~ 2014-2015, the allocation shall be as follows:

a. To provide and improve beach park facilities or beach improvements including access; to provide maintenance, renourishment, restoration and erosion control, including shoreline protection, enhancement, access, cleanup or restoration of beaches, other waterways; and to provide and improve tourist destination facilities within the sub-district for which there is public access, including the beaches located within the city limits of the City of Destin. (24-month projected revenue total, net of administrative charges, is ~~\$4,656,000.00~~ \$5,360,000)

b. To the extent that such proceeds are not required for those uses set forth under section 20-72(d)(1)a. above, then the board may direct that such proceeds may be used for any other purposes authorized under Section 125.0104(5), Florida Statutes.

(2) For the revenues generated by the second percentage point on each dollar, for each year beginning with fiscal year ~~2013-2014~~ 2014-2015, the allocations shall be as follows:

- a. Tourism services, including visitor services, brochure distribution, communication and research; tourist bureau administration; and lifeguard services and protection. (24-month projected revenue total, net of administrative charges, is ~~\$4,656,000.00~~ \$5,360,000)
 - b. To the extent that such proceeds are not required for those uses set forth under section 20-72(d)(2)a. ~~and b.~~ above, then the board may direct that such proceeds may be used for any other purposes authorized under Section 125.0104(5), Florida Statutes.
- (3) For the revenues generated by the third percentage point on each dollar, for each year beginning with fiscal year ~~2013-2014~~ 2014-2015, the allocation shall be as follows:
- a. To provide and improve Visitor Welcome or Information Centers; to provide for the operations and maintenance of the Convention Center, the Visitor Welcome or Information Centers, and other tourist destination facilities, including aquariums and museums within the sub-district; and to provide for the promotion of the use of the convention center and other tourist destination facilities. (24-month projected revenue total, net of administrative charges, is ~~\$4,656,000.00~~ \$5,360,000)
 - b. To the extent that such proceeds are not required for those uses set forth under section 20-72(d)(3)a. above, then the board may direct that such proceeds may be used for any other purposes authorized under Section 125.0104(5), Florida Statutes.
- (4) For the revenues generated by the fourth percentage point on each dollar for each year beginning with fiscal year ~~2013-2014~~ 2014-2015, the allocation shall be as follows:
- a. For the payment of debt service on bonds issued to finance the construction, reconstruction or renovation of a convention center and to pay the planning and design costs incurred prior to the issuance of such bonds. The board determines that the extension of the fourth percentage point is necessary to provide funds to operate, maintain, repair or renew the convention center. Therefore, following the expiration of bonds issued to fund the construction of the convention center, the proceeds of the fourth percentage point shall be used for any future expansion, renovation or reconstruction of the convention

center, including the construction, expansion, renovation or reconstruction of outdoor venues for the convention center. (24-month projected revenue total, net of administrative charges, is ~~\$4,656,000.00~~ \$5,360,000)

b. To the extent that such proceeds are not required for those uses set forth under section 20-72(d)(4)a. above, then the board may direct that such proceeds may be used for any other purpose authorized by Section 125.0104(3) (l) 2, 3, or 4, Florida Statutes.

(5) The fifth percentage point shall remain in effect until further action by the board. For the revenues generated by the fifth percentage point on each dollar, for each year beginning with fiscal year ~~2013-2014~~ 2014-2015, the allocation shall be as follows:

a. Tourism promotion. (24-month projected revenue total, net of administrative charges, is ~~\$4,656,000.00~~ \$5,360,000)

Sec. 20-73. Tourist development council.

(a) *Established.* There is hereby established, pursuant to the provisions of Section 125.0104, Florida Statutes, an advisory council to be known as the "Okaloosa County Tourist Development Council" (the "council"). The members of the council shall elect from among their members a member to serve as chairman of the council ~~and prescribe the term of office.~~

(b) *Duties and responsibilities.* The council hereby established shall make recommendations to the board for the effective operation of the uses of the tourist development tax revenue raised by the tax hereby levied and may perform such other duties or functions as hereinafter may be prescribed by ordinance or resolution.

(c) *Review of revenue expenditures.* The council and the director shall continuously review all expenditures of revenue raised by the tax hereby levied and shall report to the board all expenditures of said revenue believed to be unauthorized by the provisions of this article. The board, upon receiving notification of expenditures believed to be unauthorized by the council, shall review the council's findings and take such administrative or judicial action as it sees fit to ensure compliance with this article and the provisions of Section 125.0104, Florida Statutes.

Sec. 20-74. Failure to charge or collect tax.

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 being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

Sec. 20-75. Representation that tenant or lessee need not pay tax.

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 provisions of this subsection shall be guilty of a misdemeanor of the second degree, punishable as provided in Section 775.082, Section 775.083 or Section 775.084, Florida Statutes.

Sec. 20-76. Tax deemed lien.

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 Sections 713.67, 713.68 and 713.69, Florida Statutes.

Sec. 20-77. Representation of county tourism.

No business entity, other than a county tourism promotion agency, within the boundaries of Okaloosa County, Florida, shall use names as specified in Section 125.0104(9)(e), Florida Statutes, including "visitor information centers" when representing itself to the public as an entity representing tourism interest of the county.

Being a county levying the tourist development tax as aforesaid, in addition to any other powers and duties provided for agencies created for the purpose of tourism promotion by Okaloosa County, such agencies are authorized and empowered to represent themselves to the public as convention and visitors bureaus, visitors bureaus, tourist development councils, vacation bureaus, county tourism promotion agencies, or visitor information centers.

SECTION 2. CODIFICATION IN THE CODE OF ORDINANCES. It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Okaloosa County Code of Ordinances, and that the sections of this Ordinance may be renumbered to accomplish such intent.

SECTION 3. SEVE RABILITY. Should any section or provision of this Ordinance or any portion thereof, or any paragraph, sentence, or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof other than the part declared to be invalid.

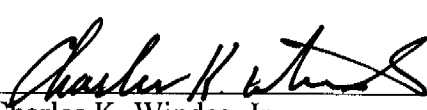

SECTION 4. EF FECTIVE DATE. This Ordinance shall be effective as provided by law.

PASSED AND ADOPTED in Regular Session this 15th day of July, 2014.

BOARD OF COUNTY COMMISSIONERS
OF OKALOOSA COUNTY, FLORIDA

ATTEST:


Clerk of Court 


Charles K. Windes, Jr.
Chairman 

APPROVED AS TO FORM:

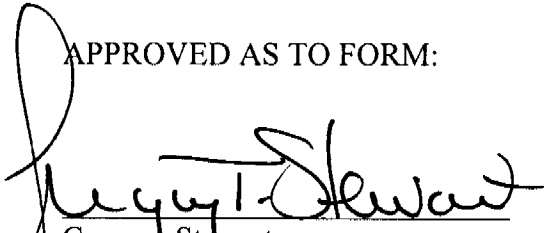
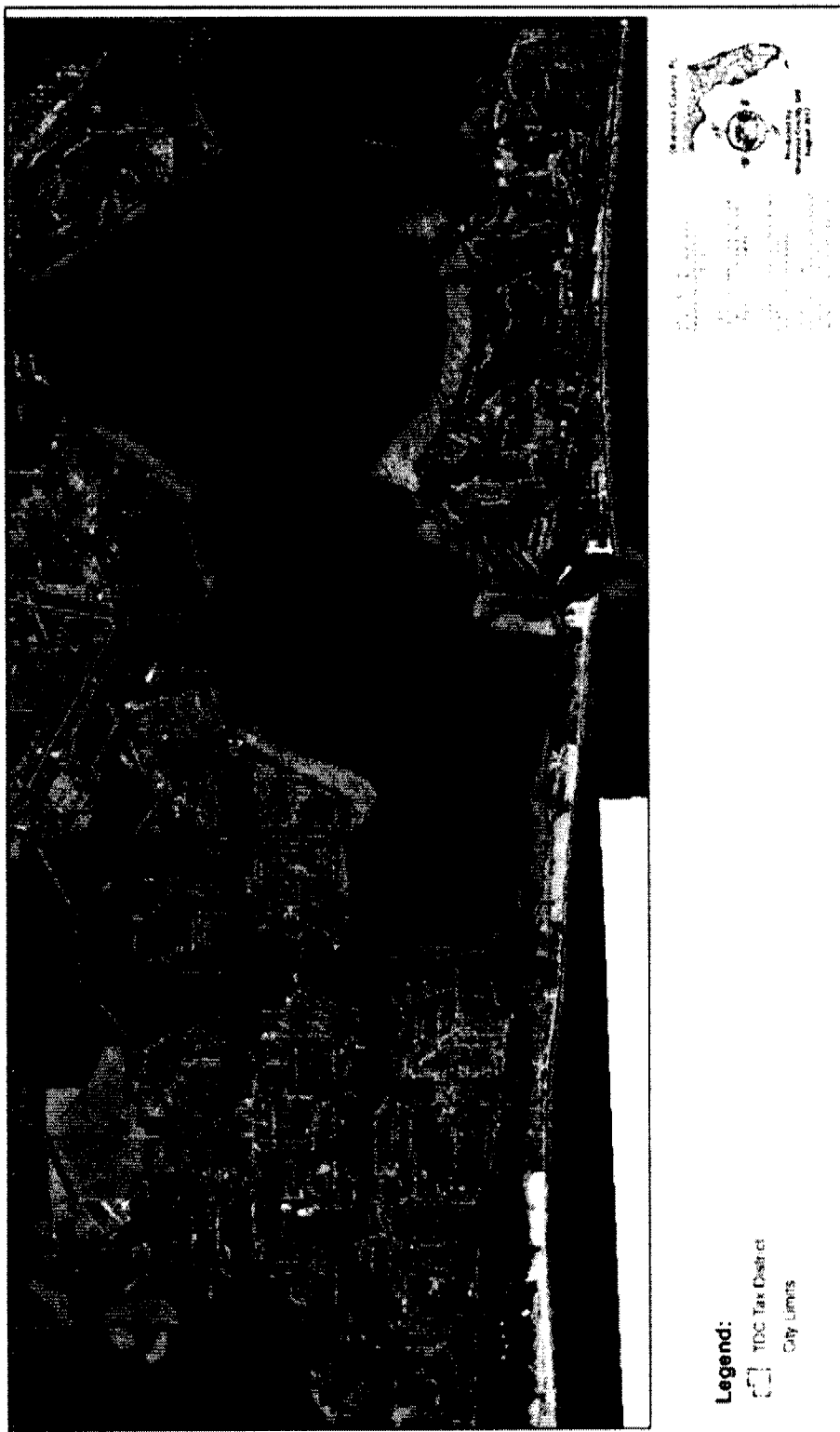

Gregory Stewart
County Attorney

EXHIBIT A





FLORIDA DEPARTMENT of STATE

RICK SCOTT
Governor

KEN DETZNER
Secretary of State

July 21, 2014

Honorable Don W. Howard
Clerk of the Circuit Court
Okaloosa County
101 East James Lee Boulevard
Crestview, Florida 32563-1359

Attention: Ms. Teresa Ward, Deputy Clerk

Dear Mr. Howard:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Okaloosa County Ordinance No. 14-08, which was filed in this office on July 21, 2014.

Sincerely,

Liz Cloud
Program Administrator

LC/elr