

**Lee County Board Of County Commissioners  
Agenda Item Summary**

Blue Sheet No. 20070088

1. **ACTION REQUESTED/PURPOSE:** Conduct a Public Hearing and consider the adoption of an Ordinance entitled "Local Business Tax Ordinance" on Tuesday, February 13, 2007, at 5:00 p.m.
2. **FUNDING SOURCE:** Funding generated will go into Lee County's General Fund.
3. **WHAT ACTION ACCOMPLISHES:** Board must formally adopt an Ordinance at a scheduled, advertised Public Hearing revising and reclassifying the rate structure for the Lee County Local Business Tax Ordinance.
4. **MANAGEMENT RECOMMENDATION:** Adopt Ordinance "Local Business Tax Ordinance".

<b>5. Departmental Category:</b> 5:00 #2		<b>6. Meeting Date:</b> 02-13-2007
<b>7. Agenda:</b>	<b>8. Requirement/Purpose: (specify)</b>	<b>9. Request Initiated:</b>
<input type="checkbox"/> Consent	<input type="checkbox"/> Statute	<b>Commissioner</b> _____
<input type="checkbox"/> Administrative	<input checked="" type="checkbox"/> Ordinance	<b>Department</b> County Attorney
<input type="checkbox"/> Appeals	<input type="checkbox"/> Admin. Code	<b>Division</b> General Services
<input checked="" type="checkbox"/> Public	<input type="checkbox"/> Other	<b>By:</b> Scott S. Coovert
<input type="checkbox"/> Walk-On		<b>Assistant County Attorney</b>

**10. Background:**

On January 10, 2006, the Board of County Commissioners approved Lee County Resolution 06-01-05 establishing an Equity Study Commission for the purpose of examining the classifications and rate structure of Lee County's Occupational License Tax, pursuant to Florida Statute §205.0535.

The Economic Development Office oversaw creation of an Equity Study Commission comprised of business representatives and staffed by appropriate County personnel. The Commission met with Lee County Tax Collector staff and representatives from the County Attorney's Office, County Administration, and Community Development over a period of five months to formulate recommended changes to the ordinance. The Commission voted on July 13, 2006 to recommend two options to revise and reclassify the rate structure of the Lee County Occupational License Tax. On December 4, 2006, at the Management and Planning meeting the Board of County Commissioners approved one of the two proposed options of the Equity Study Commission and authorized the County Attorney's Office to proceed with drafting a new Occupational License Tax Ordinance based upon their recommendation. Effective January 1, 2007, House Bill No. 1269 changed the term "Local Occupational License Tax" to "Local Business Tax".

**11. Review for Scheduling:**

Depart. Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				S. Coovert 1/23/07	Analyst RK1/23	Risk MK 1-24-07	Grants 1/24/07	Mer. 1/24/07	[Signature] 1-24-07

**12. Commission Action:**

- Approved
- Deferred
- Denied
- Other

CO. ATTY.  
FORWARDED  
TO CO. ADMIN.  
1/23/07

RECEIVED BY  
COUNTY ADMIN:  
V 4:30 MP  
23 to RK  
COUNTY ADMIN  
FORWARDED TO:  
V 9:15 MP  
25 to PR

LEE COUNTY ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE RELATING TO THE COLLECTION OF LOCAL BUSINESS TAX RECEIPTS IN LEE COUNTY, FLORIDA, REPEALING LEE COUNTY ORDINANCE NUMBERS 95-11 AND 95-23; PROVIDING FOR TITLE, PURPOSE, AUTHORITY AND CLASSIFICATION OF TAXES; PROVIDING FOR FLEA MARKETS, TEMPORARY OR TRANSITORY BUSINESSES, PROFESSIONALS AT MULTIPLE LOCATIONS, AND MULTIPLE OCCUPATIONS; PROVIDING FOR EVIDENCE OF ENGAGING IN BUSINESS, SERVICE FEES AND ADMINISTRATIVE AUTHORITY, REQUIRING A PREREQUISITE TO BUSINESS TAX RECEIPT ISSUANCE; PROVIDING FOR DUE DATES, DELINQUENCY AND PENALTIES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.

**WHEREAS**, the Board of County Commissioners of Lee County is the governing body in and for Lee County, Florida; and

**WHEREAS**, the Lee County Board of County Commissioners has been granted the authority to levy a local business tax pursuant to Chapter 205, Florida Statutes; and

**WHEREAS**, the County desires to revise the existing Lee County Occupational License Ordinance 95-11, as amended, to improve public compliance, establish a new rate structure, and address certain administrative and processing matters to issue a joint Local Business Tax Receipt with the incorporated municipalities; and

**WHEREAS**, State laws require local governments to establish an Equity Study Commission to review and make recommendations for any reclassification of a rate

structure; and

**WHEREAS**, the Board of County Commissioners established an Equity Study Commission to review and revise the existing Lee County Occupational License Tax Ordinance; and

**WHEREAS**, the Lee County Board of County Commissioners desires to adopt the findings of the Equity Study Commission for the reclassification of a rate structure of the Local Business Tax.

**NOW, THEREFORE**, be it ordained by the Board of County Commissioners of Lee County, Florida, that:

**SECTION ONE:**                      **TITLE**

Lee County Ordinance Numbers 95-11 and 95-23 are hereby repealed in their entirety and replaced with the provisions of this Ordinance. This Ordinance shall be known and cited as the "Lee County Local Business Tax Ordinance".

**SECTION TWO:**                      **PURPOSE AND AUTHORITY**

Lee County hereby levies a Local Business Tax and authorizes the issuance of Local Business Tax Receipts as authorized by Chapter 205, Florida Statutes. The purpose of this Ordinance is to grant the privilege of engaging in or managing a business, profession, or occupation within the jurisdiction of Lee County by means of a Local Business Tax. Lee County Local Business Tax Receipts are non-regulatory and do not regulate or guarantee the workmanship or scope of work performed.

**SECTION THREE:            CLASSIFICATION OF TAXES**

Lee County hereby adopts for its Local Business Tax for all professionals, occupations or businesses an annual flat tax rate of thirty dollars (\$30.00).

- A.     One half (½) year fee applies for Local Business Tax Receipts commencing April through June.
- B.     One fourth (¼) year fee applies for Local Business Tax Receipts commencing July through September.

For computation of Flea Markets, refer to SECTION FOUR: FLEA MARKETS

**SECTION FOUR:            FLEA MARKETS**

A flea market located within the jurisdiction of Lee County is subject to the Lee County Local Business Tax Ordinance and is the type of business wherein hundreds of vendors market their wares. The exact number of vendors fluctuates substantially during the course of the business year depending on the time of year and general market conditions. A number of the vendors are transient in nature and may occupy vendor spaces for a very short period of time.

Due to the variable nature of the number of vendors at a flea market during the course of the year, the following methodology will determine the amount of Lee County Local Business Tax to be charged the flea market:

- A.     The flea market operator shall provide the Lee County Tax Collector the total number of stalls that are available for rent.

1. The Lee County Local Business Tax to be charged a flea market on an annual basis will be thirty dollars (\$30.00) multiplied by the number of rentable stalls.

**SECTION FIVE:                    TEMPORARY OR TRANSITORY BUSINESSES**

Non-resident persons regulated by the Department of Business and Professional Regulation performing work or services on a temporary or transitory basis are exempt from the Local Business Tax pursuant to Section 205.065, Florida Statutes, as may be amended from time to time.

Temporary or transitory is defined as a period of less than one (1) calendar year, beginning from date of registration or from the date work began, whichever is less. Registration with the Lee County Contractor Licensing Department or Lee County Tax Collector is required.

**SECTION SIX:                    PROFESSIONALS AT MULTIPLE LOCATIONS**

- A. Any professional, regulated and licensed as an individual by the Department of Business and Professional Regulation or Florida Department of Health, working in or maintaining multiple county locations shall be issued one (1) Lee County Local Business Tax Receipt as an individual professional at a specified principle location.
- B. Professionals maintaining multiple county locations are required to comply with all zoning requirements at each office location, and are required to obtain a Lee County Local Business Tax Receipt for an Administrative

Business Office at each location.

**SECTION SEVEN:            MULTIPLE OCCUPATIONS**

- A.    Local Business Tax Receipts will be limited to one (1) occupation, business or profession per Local Business Tax Receipt.
- B.    Existing Local Business Tax Receipts containing multiple occupations must obtain individual Local Business Tax Receipts for each occupation desired prior to December 31, 2008.
- C.    Effective January 1, 2009, any Local Business Tax Receipt with multiple occupations remaining, will be modified to comply with one (1) occupation, business or profession per Business Tax Receipt.

**SECTION EIGHT:            EVIDENCE OF ENGAGING IN BUSINESS**

Any person identified as engaging in business at a given location by public notice, such as but not limited to, signs, printed matter, advertising in the classified section of any newspaper, city directory or any telephone directory shall be required to obtain a Lee County Local Business Tax Receipt for the occupation or profession in which they are engaged, regardless of whether such person actually transacts any business or practices a profession.

**SECTION NINE:            SERVICE FEES AND ADMINISTRATIVE AUTHORITY**

Lee County shall enter into an agreement with an entity authorized to collect the Lee County Local Business Tax. The agreement shall authorize the entity to receive a service fee based upon the amount of all Local Business Taxes collected, as specified in the

agreement. Any service fee for obtaining a Local Business Tax Receipt is included in the Local Business Tax. Such fees are hereby declared to be necessary for the purpose of administrative processing.

The entity authorized to collect the Lee County Local Business Tax shall have administrative authority to enhance and amend the licensing procedures providing all state, county and local licensing requirements are complied with.

**SECTION TEN: PREREQUISITE TO BUSINESS TAX RECEIPT ISSUANCE**

Before issuing the Lee County Local Business Tax Receipt, the entity authorized to collect the Local Business Tax shall coordinate with other appropriate city and county departments which will ensure the business is properly zoned for the use for which the Local Business Tax Receipt is being applied for.

**SECTION ELEVEN: DUE DATES, DELINQUENCY AND PENALTIES**

- A. All Local Business Tax Receipts shall be sold beginning on August 1<sup>st</sup> of each year, are due and payable on/or before September 30<sup>th</sup> of each year, and expire on September 30<sup>th</sup> of the succeeding year.
1. If September 30<sup>th</sup> falls on a weekend or holiday, the Local Business Tax is due and payable on/or before the first working day following September 30<sup>th</sup>.
  2. Local Business Tax Receipts that are not paid when due are delinquent and subject to a delinquency penalty of ten percent (10%) for the month of October, plus an additional five percent (5%) penalty

for each subsequent month of delinquency until paid.

3. However, the total delinquency penalty may not exceed twenty-five percent (25%) of the Local Business Tax for the delinquent account.
- B. Any person who engages in or manages any business, occupation, or profession without first obtaining a Lee County Local Business Tax Receipt, if required, is subject to a penalty of twenty-five percent (25%) of the Local Business Tax due.
- C. Any person who engages in any business, occupation, or profession covered by this Ordinance or by Florida Statutes, Chapter 205, as it may be amended from time to time, who does not pay the required Lee County Local Business Tax within one hundred and fifty (150) days after the initial notice of tax due, and who does not obtain a required Lee County Local Business Tax Receipt, is subject to civil actions and penalties, including court costs, reasonable attorney's fees, additional administrative costs incurred as a result of collection efforts by the entity authorized to collect the Local Business Tax, and a penalty of up to two hundred and fifty dollars (\$250.00).

**SECTION TWELVE: CONFLICT OF LAWS**

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted Lee County Ordinance or Florida Statute, the more restrictive shall apply.



**SECTION THIRTEEN: SEVERABILITY**

The provisions of this Ordinance are severable and it is the legislative intention to confer upon the whole or any part of the Ordinance 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 had such unconstitutional provisions not been included therein.

**SECTION FOURTEEN: CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS**

It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall become and be made a part of the Lee County Code, and that sections of this Ordinance may be renumbered or relettered and that the word "Ordinance" may be changed to "section", "article", or such other appropriate word or phrase in order to accomplish such intention, and regardless of whether such inclusion in the Code is accomplished, sections of this Ordinance may be renumbered or relettered and typographical errors which do not affect the intent may be authorized by the County Manager or the County Manager's designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

**SECTION FIFTEEN: EFFECTIVE DATE**

This Ordinance shall take effect March 1, 2007.

Commissioner \_\_\_\_\_ made a motion to adopt the foregoing ordinance, seconded by Commissioner \_\_\_\_\_. The vote was as follows:

ROBERT P. JANES	_____
BRIAN BIGELOW	_____
RAY JUDAH	_____
TAMMARA HALL	_____
FRANK MANN	_____

DULY PASSED AND ADOPTED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Robert P. Janes, Chair

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Office of the County Attorney

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"DRAFT" FOR DISCUSSION PURPOSES ONLY  
LEE COUNTY ATTORNEY'S OFFICE  
JANUARY 5, 2007

**LEE COUNTY, FLORIDA**

**FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT**

**PROPOSED COUNTY ORDINANCE:**

**NAME OF ORDINANCE: LOCAL BUSINESS TAX ORDINANCE**

**A. Statement of Purpose**

The proposed Local Business Tax Ordinance will update the current Occupational License Ordinance to improve public compliance, modernize processes and address certain administrative issues, conform with Chapter 2006-152 (House Bill 1269), and better position county tax receipt to be issued jointly with municipalities' receipts.

**B. Narrative Summary of Ordinance (Several Sentence Summary)**

The Local Business Tax authorizes the issuance of Local Business Tax Receipts as authorized by Chapter 205, Florida Statutes. The ordinance grants the privilege of engaging in or managing a business, profession, or occupation within the jurisdiction of Lee County by means of a Local Business Tax.

The Lee County Tax Collector has indicated the proposed Ordinance will be revenue neutral with the County's current Occupational License Ordinance Numbers 95-11 and 95-23.

**C. Principal Division(s) or Department(s) Affected (List)**

Lee County Tax Collector  
Budget Services

LEE COUNTY, FLORIDA  
 FINANCIAL & ADMINISTRATIVE IMPACT STATEMENT  
 PROPOSED COUNTY ORDINANCE:

II. FISCAL IMPACT ON COUNTY AGENCIES/COUNTY FUNDS.

- A. What is estimated Demand? (Develop Indicators) N/A
- B. What is estimated Workload? (Develop Indicators) N/A
- C. What are estimated costs?

	1st Year \$'s	2nd Year \$'s
	<u>Existing</u> <u>New</u>	<u>Existing</u> <u>New</u>
Personnel	N/A	
Fringe		
Operating		
Capital Outlay	_____	_____
Total		

- D. List the anticipated revenues to cover costs identified in II, C, above. If a fee is to be charged, answer the following;
  - 1. What is the basis (rationale) for the fee? Chapter 205, F.S.
  - 2. Do the anticipated fees cover the full cost of operation? If not, what percentage of the costs are covered? See Below.
- E. Give a brief narrative analysis of the information contained in II, A-D, above.

The Tax Collector has issued occupational licenses for several years. This ordinance replaces the existing related ordinances for the purpose of clarifying some administrative interpretations of the current ordinances, establishes a new rate structure to improve public compliance and addresses the matter of issuing joint occupational licenses with the municipalities. This proposed ordinance's fee collection rate is expected to be revenue neutral compared to the existing ordinances.

**LEE COUNTY**  
**NOTICE OF INTENT TO ENACT A COUNTY ORDINANCE**

TO WHOM IT MAY CONCERN:

NOTICE IS HEREBY GIVEN that on Tuesday, the **13<sup>th</sup> day of February, 2007 at 5:00 o'clock p.m.**, in the County Commissioners' Meeting Room, Old Lee County Courthouse, 2120 Main Street, Fort Myers, Florida, the Board of County Commissioners of Lee County, Florida, will consider the enactment of a County Ordinance pursuant to Article VIII, Section 1, of the Florida Constitution and Chapter 125, Florida Statutes. The title of the proposed County Ordinance is as follows:

**AN ORDINANCE RELATING TO THE COLLECTION OF LOCAL BUSINESS TAX RECEIPTS IN LEE COUNTY, FLORIDA, REPEALING LEE COUNTY ORDINANCE NUMBERS 95-11 AND 95-23; PROVIDING FOR TITLE, PURPOSE, AUTHORITY AND CLASSIFICATION OF TAXES; PROVIDING FOR FLEA MARKETS, TEMPORARY OR TRANSITORY BUSINESSES, PROFESSIONALS AT MULTIPLE LOCATIONS, AND MULTIPLE OCCUPATIONS; PROVIDING FOR EVIDENCE OF ENGAGING IN BUSINESS, SERVICE FEES AND ADMINISTRATIVE AUTHORITY, REQUIRING A PREREQUISITE TO BUSINESS TAX RECEIPT ISSUANCE; PROVIDING FOR DUE DATES, DELINQUENCY AND PENALTIES; PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND AN EFFECTIVE DATE.**

1. Copies of this Notice and the proposed Ordinance are on file in the Minutes Office of the Clerk of Courts of Lee County. The public may inspect or copy the proposed Ordinance during regular business hours at the Office of Public Resources. The Minutes Office and Public Resources are located in the Courthouse Administration Building, 2115 Second Street, Fort Myers, Florida. Public Resources is located on the first floor and the Minutes Office is located on the second floor of the Courthouse Administration Building.

2. Interested parties may appear at the meeting in person or through counsel, and be heard with respect to the adoption of the proposed Ordinance.

3. Anyone wishing to appeal the decision(s) made by the Board with respect to any matter considered at this meeting, will need a record of the proceedings for such appeal, and may need a verbatim record, to include all testimony and evidence upon which the appeal is to be based.

4. The Ordinance will take effect upon its filing with the Office of the Secretary of the Florida Department of State, or as may be otherwise prescribed in the Ordinance.

5. If you have a disability that will require special assistance or accommodations for your attendance at the public hearing, please call the Lee County Division of Public Resources at 335-2269 for information.

PLEASE GOVERN YOURSELF ACCORDINGLY.

The text of this Notice is in conformance with Section 125.66, Florida Statutes (2006), and other relevant sections of Florida law.

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Charlie Green, Ex-Officio Clerk  
to the Board of County Commissioners  
of Lee County, Florida

APPROVED AS TO FORM:

By: \_\_\_\_\_  
Office of the County Attorney

Ad Size: 2 x 5

**Publishing Dates: January 30, 2007 & February 6, 2007**