

LEE COUNTY ORDINANCE NO. 07-02

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Lee County Ordinance Numbers 95-11 and 95-23 are hereby repealed in their entirety and replaced with the provisions of this Ordinance.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 will provide the Lee County Tax Collector the average number of weekly vendors who conduct business at the flea market during the preceding October 1<sup>st</sup> through September 30<sup>th</sup> time period.

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 average number of weekly vendors.

**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 Mann made a motion to adopt the foregoing ordinance, seconded by Commissioner Bigelow. The vote was as follows:


ROBERT P. JANES	<u>AYE</u>
BRIAN BIGELOW	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
TAMMARA HALL	<u>AYE</u>
FRANK MANN	<u>AYE</u>

DULY PASSED AND ADOPTED THIS 13<sup>th</sup> day of February, 2007.

ATTEST: CHARLIE GREEN  
CLERK OF COURTS


BY:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

BY:   
Robert P. Janes, Chair



APPROVED AS TO FORM:

BY:   
Office of the County Attorney



# FLORIDA DEPARTMENT of STATE

**CHARLIE CRIST**  
Governor

STATE LIBRARY AND ARCHIVES OF FLORIDA

**KURT S. BROWNING**  
Secretary of State

February 16, 2007

Honorable Charlie Green  
Clerk of Court  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attn: Lisa L. Pierce, Deputy Clerk

Dear Mr. Green:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your letter dated February 15, 2007 and certified copy of Lee County Ordinance No. 07-02, which was filed in this office on February 16, 2007.

Sincerely,

Liz Cloud  
Program Administrator

LC/jru

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DIRECTOR'S OFFICE

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