

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

**DATE CRITICAL
Blue Sheet No. 20070674**

1. ACTION REQUESTED/PURPOSE: Adopt an ordinance providing for the reinstatement of certain residential building permits.

2. FUNDING SOURCE: n/a

3. WHAT ACTION ACCOMPLISHES: Authorizes the Lee County Building Official to reinstate certain expired residential building permits to avoid potential financial hardship.

4. MANAGEMENT RECOMMENDATION: Approve

5. Departmental Category: 12

9:30 AM

6. Meeting Date:

May 8, 2007 @ 9:30 a.m.

7. Agenda:

8. Requirement/Purpose: (specify)

9. Request Initiated:

<input type="checkbox"/>	Consent	<input checked="" type="checkbox"/>	Statute	Ch. 125, F.S.	Commissioner	
<input type="checkbox"/>	Administrative		Ordinance		Department	County Attorney
<input type="checkbox"/>	Appeals		Admin. Code		Division	Land Use
<input checked="" type="checkbox"/>	Public 9:30 a.m.		Other		By: <i>John Fredyma</i>	
<input type="checkbox"/>	Walk-On				John J. Fredyma Assistant County Attorney	

10. Background: On April 24, 2007, the Board directed the County Attorney to prepare an ordinance to allow the Lee County Building Official to reinstate certain expired residential building permits. The attached ordinance will allow the Lee County Building Official to reinstate certain expired residential building permits to active status as quickly as possible to avoid potential financial hardship. It will also provide for a refund of certain fees paid by some property owners within the effective period of the ordinance

Staff recommends adoption of the proposed ordinance.

Attachment: Proposed Ordinance

11. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
				<i>John J. Fredyma</i>	Analyst	Risk	Grants	Mgr.	<i>HS for Peter Winter</i>
					<i>MP</i>		<i>4/26/07</i>	<i>4/26/07</i>	

12. Commission Action:

- Approved
- Deferred
- Denied
- Other

CO. ATTY.
FORWARDED
TO CO. ADMIN.
4/26/07 3:30 PM

RECEIVED BY COUNTY ADMIN:
<i>4/26 MP</i>
<i>3:33</i>
COUNTY ADMIN FORWARDED TO:
<i>4/26 MP</i>
<i>3:45</i>

ORDINANCE NO. 07-

AN ORDINANCE PROVIDING FOR THE REINSTATEMENT OF CERTAIN RESIDENTIAL BUILDING PERMITS; PROVIDING FOR LEGISLATIVE FINDINGS; PURPOSE; ADOPTING REGULATIONS FOR THE REINSTATEMENT OF CERTAIN RESIDENTIAL BUILDING PERMITS; PROVIDING FOR CONFLICTS OF LAW; SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Article VIII, Section 1 of the Florida Constitution and Chapter 125 of the Florida Statutes, Lee County is authorized and required to protect the public health, safety and welfare of its citizens and has the power and authority to enact regulations for valid governmental purposes that are not inconsistent with general or special law; and

WHEREAS, the Lee County Land Development Code §6-111 adopts the Florida Building Code (2004 Edition) containing regulations applicable to the issuance of building permits for the construction of residential dwelling units in Lee County; and

WHEREAS, there are in excess of 250 expired residential building permits since January 1, 2006; and

WHEREAS, the development community made the County aware that compliance with the provisions of the Land Development Code would create a financial hardship and delay construction for the local building industry and citizens who have contracted for the construction of a new home; and

WHEREAS, the Board believes it is appropriate to reinstate certain residential dwelling unit building permits that expired on or after January 1, 2006 and on or before June 30, 2007 to active status as quickly as possible in order to avoid the potential financial hardship; and

WHEREAS, the Board finds that reinstatement of those residential building permits is fair, equitable and appropriate.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Lee County, Florida:

SECTION ONE: LEGISLATIVE FINDINGS

The Board hereby adopts the recitals set forth above as the legislative findings and conclusions necessary to support adoption of this ordinance.

SECTION TWO: PURPOSE

The purpose of this ordinance is to authorize the Lee County Building Official to reinstate certain building permits for residential dwelling units to the status held when first or originally issued, thereby allowing the permitted improvements to be completed without the added burden of fee increases that occurred after issuance of the original permit.

SECTION THREE : REINSTATEMENT OF RESIDENTIAL DWELLING UNIT BUILDING PERMITS

- (a.) Authority to reinstate. The Lee County Building Official is hereby authorized to reinstate permits issued by Lee County for the construction of residential dwelling units in unincorporated Lee County that expired on or after January 1, 2006 and on or before June 30, 2007. All such permits will be reinstated for a period of six months from the date of reinstatement and will remain subject to all other terms and conditions as imposed by original issuance. Any such permit may be extended in the same manner as any other validly issued building permit. If a project that would have qualified under this ordinance has already paid increased fees, the Lee County Building Official is authorized to refund the increased fees paid upon proper written request as provided herein.
- (b.) Applicability. This ordinance only applies to building permits issued for construction of residential dwelling units within unincorporated Lee County. The term “residential dwelling units” does not include: rooms in hotels, motels or institutional facilities; buildings with three or more dwelling units designed for rental or lease purposes and not for sale of individual units, such as apartments or similar structures; and buildings constructed on a speculative basis.
- (c.) Procedure. Persons seeking reinstatement of permits or refunds authorized herein must submit a written request to the Lee County Building Official before January 1, 2008 and pay a fee of \$100.00 for reinstatement. The Lee County Building Official will determine whether permits are eligible for reinstatement or refunds and may request or require additional documentation or information deemed reasonably necessary to establish such eligibility. Determination of the speculative status of a particular request will be made in accordance with locally recognized business definitions and practices.

SECTION FOUR: CONFLICTS OF LAW

Whenever the requirements or provisions of this Ordinance are in conflict with the requirements or provisions of any other lawfully adopted ordinance or statute, the most restrictive requirements will apply.

SECTION FIVE: SEVERABILITY

It is the Board of County Commissioners' intent that if any section, subsection, clause or provision of this ordinance is deemed invalid or unconstitutional by a court of competent jurisdiction, such portion will become a separate provision and will not affect the remaining provisions of this ordinance. The Board of County Commissioners further declares its intent that this ordinance would have been adopted if such unconstitutional provision was not included.

SECTION SIX: EFFECTIVE DATE

This ordinance will take effect on the date of adoption by the Board of County Commissioners.

THE FOREGOING ORDINANCE was offered by Commissioner who moved its adoption. The motion was seconded by Commissioner and, being put to a vote, the vote was as follows:

Robert P. Janes
Brian Bigelow
Ray Judah
Tammara Hall
Frank Mann

DULY PASSED AND ADOPTED THIS ____ day of May, 2007.

ATTEST:
CHARLIE GREEN, CLERK

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairman

APPROVED AS TO FORM:

By: _____
John J. Fredyma
Office of County Attorney