

LEE COUNTY ORDINANCE NO. 96-01

AN ORDINANCE OF LEE COUNTY RELATING TO THE PROVISIONS OF SECTION 125.80, FLORIDA STATUTES, ET SEQ., "THE OPTIONAL COUNTY CHARTER LAW"; PROVIDING FOR THE ADOPTION OF A LEE COUNTY CHARTER AND THE PROVISIONS THEREOF, PROVIDING FOR PREAMBLE, COUNTY POWERS AND DUTIES, ORGANIZATION, FORM AND STRUCTURE OF COUNTY GOVERNMENT, ELECTIVE AND APPOINTED OFFICERS, EXECUTIVE AND APPOINTED OFFICERS, EXECUTIVE AND LEGISLATIVE RESPONSIBILITIES, ELECTED COUNTY CONSTITUTIONAL OFFICES, INITIATIVE, REFERENDUM AND RECALL, CHARTER REVIEW AND AMENDMENT, ADOPTION, TRANSITION AND EFFECTIVE DATE OF CHARTER; PROVIDING FOR SPECIAL REFERENDUM ELECTION AND DIRECTION FOR BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY AND EFFECTIVE DATE; PROVIDING FOR THE REPEAL OF LEE COUNTY ORDINANCE NO. 94-20.

WHEREAS, Lee County is presently a non-charter government as established by Article VIII, Section 1(f), Florida Constitution; and,

WHEREAS, Article VIII, Section 1.(c) & (g), Florida Constitution, provides that a county government may, pursuant to general law be established by charter, as adopted by vote of the electors of the county; and,

WHEREAS, Florida Statutes Section 125.80, et al., provides a statutory method whereby a county not having a charter form of government may locally initiate a county Home Rule Charter; and,

WHEREAS, the Board of County Commissioners is required to call an election referendum to determine whether the Charter as proposed by this ordinance shall be adopted.

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

PARAGRAPH ONE:

The Board of County Commissioners of Lee County, Florida, hereby proposes, by ordinance, the following Charter for the governance of Lee County, Florida.

PARAGRAPH TWO:

The Proposed Charter of Lee County, Florida, as stated and incorporated herein, reads as follows:

LEE COUNTY HOME RULE CHARTER

PREAMBLE

We, the people of Lee County, in order to attain greater local self-determination, to exercise more control over our own destiny, to create a more responsible and effective County government, and to guarantee equal civil and political rights to all, do avail ourselves of the opportunity afforded by the Florida Constitution to become a chartered County and do hereby ordain and establish by this Home Rule Charter, a new form of government of and for Lee County.

ARTICLE I

**CREATION, POWERS AND ORDINANCES OF
HOME RULE CHARTER GOVERNMENT**

Section 1.1: Creation and General Powers of Home Rule Charter Government

Lee County shall be a Home Rule Charter county, and, except as may be limited by this Home Rule Charter, shall have all county and municipal powers of self-government granted now or in the future by the Constitution and laws of the State of Florida.

Section 1.2: Body Corporate, Name and Boundaries

Lee County shall be a body corporate and politic. The corporate name shall be Lee County. The county seat and boundaries shall be those presently designated by law.

Section 1.3: Relation to State Law

The provisions of this Home Rule Charter are not intended, and shall not be construed, to conflict with the Constitution of the State of Florida, a general law, or special law approved by vote of the electorate.

Section 1.4: Relation to Municipal Ordinances

Municipal ordinances shall prevail over County ordinances to the extent of any conflict.

ARTICLE II

ORGANIZATION OF COUNTY GOVERNMENT

Section 2.1: Elected Commission and Appointed County Manager Form of Government

Lee County shall operate under an appointed County Manager form of government with cooperation of legislative and executive functions in accordance with the provisions of this Home Rule Charter. The legislative responsibilities and powers of the County shall be assigned to, and vested in, the Board of County Commissioners. The executive responsibilities and power of the County shall be assigned to and vested in the County Manager, who shall carry out the directives and

policies of the Board of County Commissioners and enforce all orders, resolutions, ordinances, and regulations of the Board of County Commissioners, the County Charter, and all applicable general law, to ensure that they are faithfully executed.

Section 2.2: Legislative Branch

A. The County Commission. The governing body of the County shall be a Board of County Commissioners composed of five (5) members serving staggered terms of four (4) years. There shall be one Commissioner for each of the five (5) County Commission districts established pursuant to general law and they shall be elected in a partisan election on a county-wide basis by the electors of the County. Each County Commissioner during the term of office shall reside in the district from which such County Commissioner ran for office, provided that any County Commissioner who is removed from a district by redistricting may continue to serve during the balance of the term of office.

B. Redistricting. County Commission district boundaries shall be changed only after notice and a public hearing as provided by general law.

C. Salaries and Other Compensation. Salaries and other compensation of the County Commissioners shall be set the same as those set by general law for the County Commissioners of non-charter counties and shall not be lowered during the term of office.

D. Authority. The Board of County Commissioners shall exercise all legislative authority provided by this Home Rule Charter in addition to any other powers and duties authorized by general law or special law.

E. Administrative Code. The Board of County Commissioners shall adopt an Administrative Code by ordinance and in accordance with general law within twelve (12) months of

the effective date of this Charter.

(1) The Administrative Code shall organize the administration of County government and set forth the duties and responsibilities and powers of all County officials and agencies.

(2) The Administrative Code shall not apply to the elected Constitutional Officers.

F. Vacancies. A vacancy in the office of County Commissioner shall be defined and filled as provided by general law.

G. Recall. The members of the Board of County Commissioners shall be subject to recall as provided by general law.

H. Initiative.

(1) The electors of Lee County shall have the right to initiate County ordinances in order to establish new ordinances and to amend or repeal existing ordinances upon petition of qualified electors in the County. The number of qualified elector signatures for a valid petition must equal at least five percent (5%) of the electors qualified to vote in the last preceding general election.

(2) The sponsor of an initiative ordinance shall, prior to obtaining any signatures, submit the text of the proposed ordinance to the Supervisor of Elections, with the form on which signatures will be affixed, and shall obtain the approval of the Supervisor of Elections of such form. The style and requirements of such form shall be specified by County ordinance. The beginning date of any petition drive shall commence upon the date of approval by the Supervisor of Elections of the form on which signatures will be affixed, and said drive shall terminate one hundred and eighty (180) days after that date. In the event sufficient signatures are not acquired during that one hundred eighty day period, the petition initiative shall be rendered null and void and none of the signatures may be carried over into another identical or similar petition. The sponsor shall submit signed and dated

forms to the Supervisor of Elections and upon submission shall pay all fees as required by general law. The Supervisor of Elections shall within forty-five (45) days verify the signatures thereon.

(3) Within forty-five (45) days after the requisite number of names have been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall notice and hold according to general law a public hearing on the proposed ordinance and vote on it. If the Board of County Commissioners fails to enact the proposed ordinance at the public hearing, it shall, at the public hearing, by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least ninety (90) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered electors voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or, if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by this initiative procedure for a period of one year after the effective date of such ordinance.

(4) The power to enact, amend or repeal an ordinance by initiative shall not include ordinances relating to the County budget, debt obligations, capital improvement programs, salaries of County officers and employees, the levy and collection of taxes, and the rezoning of an individual parcel of land.

I. Non-Interference.

(1) County Commissioners may communicate, directly or indirectly, with employees, officers or agents under the direct or indirect supervision of the County Manager or County Attorney

only for the purpose of inquiry or information.

(2) Except for the purpose of inquiry or information, a County Commissioner shall not, directly or indirectly, give directions to or interfere with the performance of the duties of any employee, officer, or agent under the direct or indirect supervision of the County Manager or County Attorney.

(3) Violations of the Section of the Charter shall constitute malfeasance within the meaning of Section 100.361(1)(b), Florida Statutes.

(4) Nothing contained herein shall prevent a County Commissioner from referring a citizen complaint or request to the County Manager or County Attorney.

Section 2.3: Executive Branch

A. The County Manager.

(1) The County Manager shall be appointed by an affirmative vote of a simple majority of the membership of the Board of County Commissioners. The County Manager may be terminated with or without cause by an affirmative vote of a simple majority of the membership of the Board of County Commissioners. The County Manager may be employed by means of a contract with the Board of County Commissioners. The County Manager shall be the chief executive officer of the County and all executive responsibilities and power shall be assigned to and vested in the County Manager, which shall consist of the following powers and duties, with the specific exception of the Office of the Lee County Hearing Examiner, which notwithstanding any provision of this Charter to the contrary, may continue by existing Ordinance, or be re-established by new Ordinance, consistent with the other provisions of this Charter:

(a) Report annually to the Board of County Commissioners and to the citizens

on the state of the County, the work of the previous year, recommendations for action or programs for improvement of the County, and the well-being of its residents.

(b) Prepare and submit the annual budget and capital programs to the Board of County Commissioners and execute the budget and capital programs in accordance with appropriations and ordinances enacted by the Commission.

(c) Ensure that all ordinances resolutions and orders of the Board of County Commissioners and all laws of the State which are subject to enforcement by the County Manager, or by officers who are subject under this Charter to the County Manager's direction and supervision, are faithfully executed.

(d) Carry into execution such other powers or duties, as are required by this Charter or may be prescribed by the Board of County Commissioners.

(e) The County Manager shall exercise all executive authority provided by this Home Rule Charter in addition to all other powers and duties authorized by general or special law.

(2) The County Manager shall be qualified by administrative and executive experience and ability to serve as the chief executive officer of the County. Minimum qualifications including educational and administrative requirements for the County Manager shall be established by County ordinance. The County Manager need not be a resident of the County at the time of appointment, but during the term of appointment shall reside within the County.

(3) The compensation of the County Manager shall be fixed by the Board of County Commissioners.

(4) The office of County Manager shall be deemed vacant if the incumbent moves his residence from the County or is, by death, illness, or other casualty, unable to continue in office. A

vacancy in the office shall be filled in the same manner as the original appointment. The Board of County Commissioners may appoint an acting County Manager in the case of vacancy, temporary absence or disability until a successor has been appointed and qualified or the County Manager returns.

B. County Department Heads.

(1) The County department heads shall be appointed by and shall be responsible to the County Manager.

(2) The County Manager shall have the sole authority to suspend or terminate any department head with or without cause.

C. County Attorney.

(1) The County Attorney shall be appointed by an affirmative vote of a simple majority of the membership of the Board of County Commissioners. The County Attorney may be terminated with or without cause by an affirmative vote of a simple majority of the membership of the Board of County Commissioners.

(2) The County Attorney may be employed by means of a contract with the Board of County Commissioners.

(3) The County Attorney shall be a member in good standing of the Florida Bar and shall reside within the County during the term of appointment.

(4) The County Attorney shall be the legal advisor and provide legal services to the Board of County Commissioners, the County Manager and departments and divisions under the supervision of the County Manager, and all County regulatory and advisory boards and agencies in all matters relating to their official duties and responsibilities.

(5) The County Attorney shall appoint and terminate Assistant County Attorneys with or without cause.

(6) In the event there is an actual or potential conflict of interest between parties represented by the County Attorney as specified in Section 2.3.C.(4), the County Attorney shall promptly submit such conflict to the Board of County Commissioners who shall resolve such conflict by hiring special legal counsel or other lawfully available method to resolve the conflict.

ARTICLE III

ELECTED COUNTY CONSTITUTIONAL OFFICES

Section 3.1: Elected County Constitutional Offices

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court and Supervisor of Elections shall remain as independent, elected constitutional officers and the powers, duties and functions shall not be altered by this Home Rule Charter. The Constitutional officers shall perform their executive and administrative functions as specified by general law.

ARTICLE IV

HOME RULE CHARTER AMENDMENTS, CHARTER REVIEW, TRANSITION, SEVERANCE, EFFECTIVE DATE

Section 4.1: Home Rule Charter Amendments

A. Amendments Proposed by Petition.

(1) The electors of Lee County shall have the right to initiate proposed amendments to this Home Rule Charter upon petition of the qualified electors in the County. The number of qualified elector signatures for a valid petition must equal at least seven percent (7%) of the electors qualified to vote in the last preceding general election.

(2) Each such proposed amendment shall embrace but one subject and matter directly connected therewith. Each Charter amendment proposed by petition shall be placed on the ballot by resolution of the Board of County Commissioners for the next general election occurring in excess of ninety (90) days from the certification by the Supervisor of Elections that the requisite number of signatures has been verified.

(3) The sponsor of a petition amendment shall, prior to obtaining any signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the form on which the signatures will be affixed, and shall obtain the approval of the Supervisor of Elections of such form. The style and requirements of such form shall be specified by County ordinance. The beginning date of any petition drive shall commence upon the date of approval by the Supervisor of Elections of the form on which signatures will be affixed, and said drive shall terminate one hundred and eighty (180) days after that date. In the event sufficient signatures are not acquired during that one hundred and eighty (180) day period, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition. The sponsor shall submit signed and dated forms to the Supervisor of Elections and upon submission pay all fees as required by general law. The Supervisor of Elections shall within forty-five (45) days verify the signatures thereon.

(4) If approved by a majority of those electors voting on the amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

B. Amendments and Revisions by Charter Review Committee.

(1) A Charter Review Committee consisting of fifteen (15) electors of the County shall be appointed by the Board of County Commissioners at least twelve (12) months before the general election every four (4) years after the general election occurring in 1996. The Charter Review Committee shall review the Home Rule Charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. No member of the State Legislature, the Board of County Commissioners, or any elected officer of a municipality shall be a member of the Charter Review Committee. Vacancies shall be filled within thirty (30) days in the same manner as the original appointments.

(2) The Charter Review Committee shall meet for the purpose of organization within thirty (30) days after the appointments have been made. The Charter Review Committee shall elect a chairman and vice chairman from among its membership. Further meetings of the Charter Review Committee shall be held upon the call of the chairman or a majority of the members of the Charter Review Committee. All meetings shall be open to the public. A majority of the members of the Charter Review Committee shall constitute a quorum. The Charter Review Committee may adopt such other rules for its operations and proceedings as it deems desirable. Members of the Charter Review Committee shall receive no compensation but shall be reimbursed for necessary expenses pursuant to general law.

(3) A budget for the Charter Review Committee shall be set by the Board of County

Commissioners. Within the budget limits set by the County Commission, the Charter Review Committee may employ a staff, consult and retain experts, and purchase, lease, or otherwise provide for such supplies, materials, equipment and facilities as it deems necessary and desirable.

(4) The Charter Review Committee shall hold at least three (3) public hearings at intervals of not less than ten (10) days nor more than twenty (20) days on any proposed Charter amendment or revision, and no Charter amendment or revision shall be submitted to the County Commission for consideration unless favorably voted upon by an affirmative vote of a two-thirds (2/3) majority of the entire membership of the Charter Review Committee.

(5) No later than one hundred and twenty (120) days prior to the general election, the Charter Review Committee shall deliver to the Board of County Commissioners the proposed amendments or revisions, if any, to the Home Rule Charter. The Board of County Commissioners shall promptly review the proposals as approved by the Charter Review Committee. If approved by a majority of the membership of the Commission, the County Commission shall place the proposals on the next general election ballot. If a majority of the electors voting on the amendments or revisions to the Charter favor adoption, such amendments or revisions shall become effective on January 1 of the succeeding year or such other time as the amendment or revision shall provide.

(6) If the Charter Review Committee does not submit any proposed Charter amendments or revisions to the Board of County Commissioners at least one hundred and twenty (120) days prior to the general election, the Charter Review Committee shall be automatically dissolved. Otherwise, upon acceptance or rejection of the proposed amendments or revisions by the County Commission, the Charter Review Committee shall be automatically dissolved. Upon dissolution of the Charter Review Committee, all property of the Charter Review Committee shall

thereupon become the property of the County.

C. Amendments Proposed by the Board of County Commissioners.

(1) Amendments to this Home Rule Charter may be proposed by ordinance enacted by the Board of County Commissioners by an affirmative vote of a simple majority of the membership of the Board of County Commissioners. Each proposed amendment shall embrace but one subject and matter directly connected therewith. Each proposed amendment shall become effective upon approval by a majority of the electors of Lee County voting in a referendum at a general election. The Board of County Commissioners shall give public-notice of such referendum election as required by general law.

(2) If approved by a majority of those electors voting on amendment at the general election, the amendment shall become effective on the date specified in the amendment, or, if not so specified, on January 1 of the succeeding year.

Section 4.2: Home Rule Charter Transition

A. General Provisions.

Unless expressly provided otherwise in this Home Rule Charter, the adoption of this Charter shall not affect any existing contracts or obligations of Lee County; the validity of any of its laws, ordinances, regulations, and resolutions; or the term of office of any elected County officer, whose term shall continue as if this Charter had not been adopted.

B. Initial County Commissioners.

The persons comprising the Lee County Board of County Commissioners on the effective date of this Charter shall become the initial members of the Board of County Commissioners of the Charter Government and shall perform the functions thereof until the normal expiration of

their terms or until the election and qualification of their successors as provided by law.

C. Outstanding Bonds.

All outstanding bonds, revenue certificates, and other financial obligations of the County outstanding on the effective date of this Charter shall be obligations of the Charter Government. All actions taken by the former government relating to the issuance of such obligations are hereby ratified and confirmed. Payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived from the same sources from which such payment would have been made had this Charter not taken effect.

D. Employee Continuation.

All employees of the former county government shall on the effective date on this Charter become employees of the County government created by this Charter. All existing wages, benefits, collective bargaining certifications and agreements, and conditions of employment shall continue uninterrupted, until modified by lawful action of the Board of County Commissioners or joint agreement of the Board and any appropriate bargaining agent, if a collective bargaining agreement exists and controls.

Section 4.3: Severability

If any provision of this Charter or the application thereof to any person or circumstance is held to be invalid, the invalidity shall not affect other provisions or applications of the Charter which shall be given effect without the invalid provision or application, and to this end the provisions of this Charter are declared severable.

Section 4.4: Home Rule Charter Effective Date

This Charter shall become effective on January 1, 1997.

PARAGRAPH THREE:

The Proposed Charter of Lee County, Florida, shall be presented to the qualified Lee County electorate by placing the question of whether to adopt same on the Ballot at a Special Referendum Election to be held on November 5, 1996.

PARAGRAPH FOUR:

The question on the ballot shall be substantially in the following form:

CHARTER FOR LEE COUNTY, FLORIDA
AS PROPOSED BY LEE COUNTY ORDINANCE NO. 96-01

Question

Should there be a Home Rule Charter for Lee County per Ordinance No. 96-01, which provides for, among other things, local self-government powers approved by the electorate not inconsistent with general or special laws, superiority of municipal ordinances, an elected County Commission, an appointed County Manager and County Attorney, citizen initiative for County Ordinances and Charter Amendments, recall of Commissioners, retention of elected Constitutional Officers, and a Charter Review Committee?

Yes for Approval _____

No for Rejection _____

PARAGRAPH FIVE:

The Board of County Commissioners of Lee County, Florida, is authorized to adopt all Resolutions and to take all actions necessary in order that this Charter Referendum proposition and those propositions referenced in the Preamble and Articles of the Proposed Charter herein are

properly placed on the Special Referendum Ballot for November 5, 1996. Said Referendum shall be conducted according to the requirements of law governing Referendum Elections in the State of Florida.

PARAGRAPH SIX:

It is declared to be the legislative intent that if any section, subsection, sentence, clause or provision of this Ordinance is held to be invalid by a court of competent jurisdiction, the remainder of the Ordinance shall not be affected.

PARAGRAPH SEVEN:

(A) The Charter of Lee County, Florida, as proposed by this Ordinance, shall become effective January 1, 1997 if the Charter is approved by a "yes" vote by a majority of those duly qualified electors voting on the question posed at the November 5, 1996 Referendum. If a majority of those voting shall not vote "yes" to the question proposed in Paragraph Four hereof, the Proposed Charter shall not be adopted and said Charter and its provisions, as proposed in this Ordinance, shall be of no force or effect.

(B) This Ordinance shall be effective upon the receipt of official acknowledgment that it has been duly filed with the Secretary of State of Florida, but shall be of no further force or effect if the Proposed Charter is not duly approved at the November 5, 1996 Special Referendum Election.

PARAGRAPH EIGHT:

Lee County Ordinance No. 94-20 is hereby repealed in its entirety, and is of no further force

or effect.

The foregoing ordinance was offered by Commissioner Judah, who moved its adoption. The motion was seconded by Commissioner Manning and, being put to a vote, the vote was as follows:

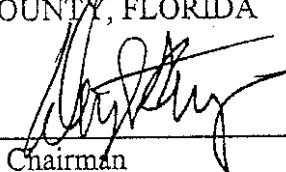
DOUGLAS ST. CERNY	<u>AYE</u>
JOHN E. MANNING	<u>AYE</u>
RAY JUDAH	<u>AYE</u>
ANDREW COY	<u>AYE</u>
JOHN E. ALBION	<u>AYE</u>

DULY PASSED AND ADOPTED this 3rd day of January, 1996.

ATTEST: CHARLIE GREEN
CLERK OF COURT

By: 
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: 
Chairman

APPROVED AS TO FORM:

By: 
Office of County Attorney

Charlie Green
Clerk Of Circuit Court
Lee County, Florida

STATE OF FLORIDA

COUNTY OF LEE

I, Charlie Green, Clerk of the Circuit Court, for Lee County, Florida, and ex-Officio Clerk of the Board of County Commissioners, Lee County, Florida, do hereby Certify that acknowledgment has been received from the Secretary of State on this 11th day of January, 1996, at 8:01 a.m. of the filing of Lee County Ordinance No. 96-01 duly adopted by the Board of Lee County Commissioners, at their meeting held on the 3rd day of January, 1996 and same filed in the Clerk's Office.

Given under my hand and seal, at Fort Myers, Florida, this 11th day of January, 1996.

CHARLIE GREEN, CLERK
Clerk of Circuit Court

By: Ruth J. [Signature]

Deputy Clerk