

LEE COUNTY ORDINANCE NO. _____

AN ORDINANCE OF LEE COUNTY AMENDING LEE COUNTY ORDINANCE NO. 08-15, PURSUANT TO THE PROVISIONS OF SECTION 125.80, FLORIDA STATUTES, ET SEQ., "THE OPTIONAL COUNTY CHARTER LAW"; RELATING TO THE LEE COUNTY CHARTER AND THE PROVISIONS THEREOF ON COUNTY COMMISSION ORGANIZATION, PROVIDING FOR CONFLICTS OF LAW, SEVERABILITY, CODIFICATION, INCLUSION IN CODE AND SCRIVENER'S ERRORS, AND EFFECTIVE DATE.

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, on January 3, 1996, duly passed and adopted Ordinance No. 96-01, which called for an election referendum to determine whether the Charter should be adopted; and,

WHEREAS, on November 5, 1996, the Proposed Charter of Lee County, Florida was presented to the qualified Lee County electorate by placing the question of whether to adopt same on the Ballot at a Special Referendum Election held on November 5, 1996; and,

WHEREAS, the Proposed Charter was voted for adoption by Ballot at the Special Referendum Election and became effective on January 1, 1997; and,

WHEREAS, Article IV, Section 4.1 C. provides for a Board of County Commissioners' method of amending the Lee County Charter whereby proposed Amendments are directed by the Board of County Commissioners to the ballot; and,

WHEREAS, the Board of County Commissioners desires to amend Lee County Ordinance No. 08-15, Article II, relating to Organization of County Government from election of Commissioners on a county-wide basis to one of election by single member district.

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

SECTION ONE:

This Ordinance amends Lee County Ordinance No. 08-15, as set forth herein. The amendments and revisions set forth in the following Section is hereby adopted, with strike-through type being the language deleted and underlined text being language added.

SECTION TWO:

Article II, Organization of County Government, Section 2.2: Legislative Branch of Lee County Ordinance No. 08-15, is hereby further amended to read as follows:

ARTICLE II

ORGANIZATION OF COUNTY GOVERNMENT

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 will 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. Beginning with the election held in 2012, the Board of County Commissioners will be elected from single-member County Commissioner districts; the districts together covering the entire County and divided as nearly equal in population as practicable. Each Commissioner will be nominated and elected only by the qualified electors who reside in the same County Commission district as the Commissioner. The election, term of office, and compensation of board members will all be in accordance with general law.

C. The County Commission district seats filled in the 2010 election shall remain in effect until the normal expiration date of that term of office. All Commissioners thereafter shall be elected from the five single-member districts.

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

EG. 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.

FD. 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.

GE. 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.

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

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

JH. 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.

Each such proposed ordinance shall embrace but one subject and matter directly connected therewith. 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. No more than thirty percent (30%) of the total number of signature required will be allowed in any single Board of County Commission District.

(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 (180) 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 for 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 and thereafter may amend or repeal such ordinance only by an affirmative vote of at least a majority plus one of its membership.

(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.

Kf. 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(l)(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 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 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 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

SECTION SIX: **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 other such 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 his designee, without need of public hearing, by filing a corrected or recodified copy of same with the Clerk of Circuit Court.

SECTION SEVEN: **EFFECTIVE DATE**

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 the Amendment at Section Section 2.2: Legislative Branch shall be of no further force or effect if the Proposed Amendment is not duly approved at the November 2, 2010, Special Referendum Election.

Commissioner _____ made a motion to adopt the foregoing Ordinance, seconded by Commissioner _____. The vote was as follows:

VACANT	_____
BRIAN BIGELOW	_____
RAY JUDAH	_____
TAMMARA HALL	_____
FRANK MANN	_____

DULY PASSED AND ADOPTED THIS _____ day of _____.

ATTEST: CHARLIE GREEN
CLERK OF COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

BY: _____
Deputy Clerk

BY: _____
Chair

APPROVED AS TO FORM:

BY: _____
Office of the County Attorney