

HOME RULE CHARTER

PREAMBLE

The citizens of Charlotte County, Florida, believing that governmental decisions affecting local interests should be made locally rather than by the state, and, in order to bring to the county the full home rule benefits afforded by the constitution of the State of Florida to charter counties, do ordain and establish this home rule charter for Charlotte County, Florida.

ARTICLE I. CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT

Sec. 1.1. Creation and general powers of home rule charter government.

Charlotte 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, not inconsistent with general law, or with special law approved by vote of the electors.

(Res. No. 92-192, § 3(1), 9-8-92)

Editors note: Res. No. 92-192 was approved at an election held Nov. 3, 1992, with the amendments effective Jan. 1, 1993.

Sec. 1.2. Relations to state law.

A. 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, general law, or special law approved by vote of the electorate.

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

Sec. 1.3. Relation to municipal ordinances.

Municipal ordinances shall prevail over county ordinances to the extent of any conflict, except that county-wide ordinances relating to the following subjects shall prevail over municipal ordinances to the extent of any conflict:

A. Impact fees on new development to pay the cost of providing county public facilities required by such development.

B. A county-wide comprehensive plan or county-wide elements of a county comprehensive plan and county-wide land development regulations as defined by Chapter 163, Part II, Florida Statutes, as the same may be amended by the Florida legislature.

(Res. No. 98-094, county comprehensive plan and county-wide land development regulations as defined by Chapter 163, Part II, Florida Statutes, as the same may be amended by the Florida legislature.

(Res. No. 98-094, § 3(5), (6), 7-28-98)

Editor's note: Res. No. 98-094 was approved at an election held Nov. 3, 1998, with the amendments effective Jan. 1, 1999.

Sec. 1.4. Relation to independent special districts.

This home rule charter shall not affect pre-existing independent special districts created by general law or special act of the legislature.

Sec. 1.5. Commission agenda.

The official agenda, and supporting documentation in the possession of the county, for every non-emergency meeting of the commission shall be made available seven days before the commission meeting. Items may be added to the agenda by four-fifths vote of the commission or when deemed necessary by the majority in emergency situations.

(Res. No. 2010-63, § 7, 7-27-10)

Editor's note: Res. No. 2010-63 was approved at an election held Nov. 2, 2010, with the amendments effective Jan. 1, 2011.

ARTICLE II. ORGANIZATION OF COUNTY GOVERNMENT

Sec. 2.1. Elected commission and appointed county administrator form of Government.

Charlotte County shall operate under an elected county commission and appointed county administrator form of government with strict separation of legislative and executive functions in accordance with the provisions of this home rule charter.

Sec. 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 (1) commissioner for each of the five (5) county commissioner districts established pursuant to general law, and they shall be elected on a county-wide basis by the electors of the county. Each candidate for the office of commissioner shall reside within the district from which such candidate seeks election for at least six (6) months immediately prior to the time of qualifying to run for that office¹, and during the term of office for each commissioner shall reside in the district from which such commissioner ran for office, provided that any commissioner who is removed from the district by redistricting may continue to serve during the balance of the term of office, and providing further that any such commissioner who shall be temporarily removed from the district from which commissioner ran for office by reason of calamity or natural disaster shall be deemed to be residing in such district, provided, within six (6) months, such commissioner demonstrates their intention to return to said district. However, any commissioner who shall remove his or her residency from the district for which he or she is elected other than by reason of redistricting, or temporarily by reason of calamity or natural disaster without the intent to return, shall thereupon become disqualified to represent said district and the office of any such commissioner shall be deemed vacant.

B. *Redistricting.* Commissioner districts shall be changed only after notice and a public hearing.

¹ But see *Brinkman v. Francois* 184 So.3d 504 (2016) where the Florida Supreme Court held that candidates for county commission are required to establish residency within their district *only at the time of election*.

C. *Salaries and other compensation.* Salaries and other compensation of the county commissioners shall be the same as those set by general law for the county commissioners of noncharter counties.

D. *Authority.* The board of county commissioners shall exercise all legislative authority provided by this home rule charter and shall have all powers of local self-government not inconsistent with general law or special law approved by vote of the electors. The adoption of all ordinances shall require the affirmative vote of a majority of the total membership of the board of county commissioners. In addition to its other powers and duties, the board of county commissioners shall conduct an annual review of all operations of the county, including all programs and services provided, with input from the public, prior to April first of each year, and take action as a result of this review for improvement of the county and the welfare of its residents.

E. *Vacancies.* A vacancy in the office of county commissioners shall be defined and filled as provided by general law and the Florida Constitution.

F. *Recall.* The members of the board of county commissioners shall be subject to recall as provided by general law.

G. *Initiative.*

(1) The people of Charlotte County shall have the right to initiate county ordinances in order to establish new ordinances and to amend or repeal existing ordinances upon petition by a number of electors equal to ten (10) percent of the number of electors qualified to vote in the county as a whole 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 ordinance. The beginning date of any petition drive shall commence upon the date of approval by the supervisor or (of) elections of the form on which signatures will be affixed, and said drive shall terminate six (6) months after that date. In the event sufficient signatures are not acquired during that six-month period, the petition drive 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[,] who shall within thirty (30) days verify the signatures thereon.

(3) Within sixty (60) days after the requisite number of names have been verified by the supervisor of elections and reported to the county commission, the county commission shall notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the county commission fails to adopt the proposed ordinance, it shall, 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 forty-five (45) 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 county commission 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 county commission shall not amend or repeal an ordinance adopted by initiative for a period of one (1) year after the effective date of such ordinance.

(4) The right to initiate county ordinances shall not include ordinances establishing, amending or repealing the county budget, existing debt obligations, or the re-zoning of an individual parcel of land.

H. *Municipal service taxing or benefit units.*

(1) The board of county commissioners shall, upon the petition of thirty (30) or more electors residing within a municipal service taxing unit (MSTU) or municipal service benefit unit (MSBU), establish by ordinance an appointed board of advisors to consist of five (5) qualified resident electors of such MSTU or MSBU. The ordinance shall provide the terms of the board of advisors and for the responsibilities of the board of advisors to request such services and facilities as deemed necessary to serve the residents of the MSTU or MSBU. The board of county commissioners may abolish a board of advisors by ordinance after a public hearing, and, upon abolition of the board of advisors, no new petition for the creation of a board of advisors, shall be considered for a period of two (2) years.

(2) Each MSTU or MSBU advisory board shall submit an annual report to the board of county commissioners on the MSTU's or MSBU's activities, objectives, work programs and funding requests by March 1st of each year.

I. *Economic impact estimates for ordinances.*

(1) An economic impact estimate shall be prepared for each proposed county ordinance, except as otherwise provided herein.

(2) An economic impact estimate shall include:

(a) An estimate of the cost to county government of the implementation of the proposed ordinance, including the estimated amount of paperwork;

(b) An estimate of the cost and economic benefit to all persons directly affected by the proposed ordinance; and

(c) A detailed statement of the data and methods used in making the above estimates.

(3) As part of the required published notice of intent by the board of county commissioners to consider adoption of a proposed county ordinance subject to this subsection I, notice shall be given of the location where the economic impact estimate can be inspected during normal business hours beginning no later than the day on which the required notice is published.

(4) This subsection I shall not apply to the following ordinances:

(a) Emergency ordinances;

(b) Initiative ordinances;

(c) Ordinances adopting a budget;

(d) Ordinances rezoning real property;

(e) Ordinances amending the future land use map of the comprehensive plan.

(5) Inadequacy or inaccuracy of an economic impact estimate shall not be grounds for invalidation of a county ordinance.

J. *Debt policy.* The county commission shall adopt and review annually, prior to April first of each year, a debt policy to guide the issuance and management of debt. The debt policy shall be integrated with other financial policies, operating and capital budgets. Adherence to a debt policy helps ensure that debt is issued and managed prudently in order to maintain a sound fiscal position and protect credit quality. Elements to be addressed in the debt policy shall include:

- (1) The purposes for which debt may be issued.
- (2) Legal debt limitations, or limitations established by policy (maximum amount of debt that should be outstanding at one time).
- (3) The types of debt permitted to be issued and criteria for issuance of various types of debt.
- (4) Structural features of debt (maturity, debt service structure).
- (5) Credit objectives.
- (6) Placement methods and procedures.

K. *Reserve policy.* The county commission shall adopt and review annually, prior to April first of each year, a reserve (stabilization funds) policy to maintain a reasonable level of financial resources to protect against reducing service levels or raising taxes and fees because of temporary revenue shortfalls or unpredicted one (1) time expenditures and cost shifts. Elements to be addressed in the reserve policy shall include:

- (1) Guidelines for the use of reserve funds.
- (2) The level of funding (minimum and maximums) for reserve funds and the time period over which reserve funds should be accumulated.
- (3) Procedures for reporting and managing reserve funds.

(Res. No. 92-192, § 3(2, 3, 5, 8) 9-8-92; Res. No. 98-094, § 3(1), 7-28-98; Res. No. 2004-176, §§ 3, 4, 8-10-04; Res. No. 2010-63, §§ 2, 3, 4, 7-27-10; Res. No. 2016-099, § 4, 7-12-16)

Editor's note: Res. No. 92-192 was approved at an election held Nov. 3, 1992, with the amendments effective Jan. 1, 1993. Res. No. 98-094 was approved at an election held Nov. 3, 1998, with the amendments effective Jan. 1, 1999. Res. No. 2004-176 was approved at an election held Nov. 2, 2004, with the amendments effective Jan. 1, 2005. Res. No. 2010-63 was approved at an election held Nov. 2, 2010, with the amendments effective Jan. 1, 2011. Res. No. 2016-099 was approved at an election held Nov. 8, 2016, with the amendments effective Jan. 1, 2017.

Sec. 2.3. Executive branch.

A. *The county administrator.*

- (1) The county administrator, appointed by, and responsible to, the board of county commissioners, shall be the chief administrative officer of the county and shall be responsible for all administrative matters and operations under the authority of the board of county commissioners.

(2) The county administrator shall be appointed on the affirmative vote of four (4) members of the board of county commissioners on the basis of administrative ability and qualifications, pursuant to requirements specified by ordinance, and shall reside within the county while so employed.

(3) The county administrator's salary shall be set by the board of county commissioners.

(4) The county administrator may be removed with or without cause upon an affirmative vote of four (4) members of the board of county commissioners, or upon the affirmative vote of three (3) members at two (2) separate board meetings held at least two (2) weeks apart. Grounds for removal for cause shall include flagrant neglect of duty, physical or mental incapacity, conviction for the commission of a felony, violation of any statute relating to conduct of public employees, or such other grounds as may be provided by ordinance.

B. County department heads.

(1) The county department heads, with the exception of the county attorney and the director of economic development, shall be appointed by the county administrator, with the advice and consent of the board of county commissioners, and shall be responsible to the county administrator.

(2) The county administrator shall have the authority to suspend or discharge any department head, other than the county attorney and the director of economic development, with or without cause. Procedures for the suspension or discharge of department heads shall be as provided by ordinance.

C. Noninterference with employees.

(1) Except for the purposes of inquiry and information, the members of the board of county commissioners shall not interfere with the performance of the duties of any employee of the county who is under the direct or indirect supervision of the county administrator.

(2) The board of county commissioners shall have the authority to enforce this subsection against a county commissioner by a suit for injunctive relief in the circuit court. If an injunction is granted against a commissioner, such commissioner shall be personally liable for all costs and reasonable attorney's fees incurred by the board. If an injunction is not granted against the commissioner, such commissioner shall be entitled to payment by County of all costs and reasonable attorney's fees incurred in defending such action.

(3) In the event a commissioner against whom an injunction has been entered is subsequently found to be in contempt of the injunction, such commissioner's seat shall be deemed vacant and the vacancy shall be filled pursuant to the provisions of this home rule charter.

(4) Violation of subsection C(1), above, shall also constitute malfeasance in office for purposes of recall under the provisions of this home rule charter.

D. County attorney. There shall be a county attorney selected by the board of county commissioners who shall serve at the pleasure of the board. The county attorney shall not be under the direction and control of the county administrator but shall, instead, be responsible directly to the board of county commissioners.

E. *Administrative code.* An Administrative code shall be prepared by the county administrator and adopted by the board of county commissioners. The administrative code shall contain a description of each department under the authority of the county administrator and shall include, but not limited to, the organization and functional responsibilities of each department and the methods whereby the public may obtain information or make submissions or requests. The administrative code shall be adopted on or before January 1, 1994, and shall be updated as necessary to ensure that the information therein is accurate.

F. *Director of Economic Development.* There shall be a director of the economic development office selected by the board of county commissioners who shall serve at the pleasure of the board. The director of the economic development office shall not be under the direction and control of the county administrator but shall, instead, be responsible directly to the board of county commissioners.

(Ord. No. 88-9, § 2, 4-26-88; Res. No. 92-192, § 3(4), 9-8-92; Res. No. 98-094, § 3(2), 7-28-98; Res. No. 2010-63, § 8, 7-27-10)

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ARTICLE III. ELECTED COUNTY CONSTITUTIONAL OFFICES

Sec. 3.1. Relationship to the home rule charter.

The offices of sheriff, property appraiser, tax collector, clerk of the circuit court and supervisor of elections shall remain as elected constitutional offices and shall not fall under the jurisdiction of this home rule charter, except as otherwise provided herein.
(Res. No. 98-094, § 3(1), 7-28-98)

Sec. 3.2. Residency requirements.

No person shall be qualified as a candidate for the office of sheriff, property appraiser, tax collector, clerk of the circuit court, or supervisor of elections unless such person has resided for at least six (6) months in Charlotte County immediately prior to qualification. Any person holding the office of sheriff, property appraiser, tax collector, clerk of the circuit court, or supervisor of elections who shall remove his or her residency from Charlotte County shall thereupon become disqualified to hold said office and the office of any such person shall be deemed vacant.
(Res. No. 98-094, § 3(1), 7-28-09; Res. No. 2010-63, § 5, 7-27-10)

Editor's note: Res. No. 98-094 was approved at an election held Nov. 3, 1998, with the amendments effective Jan. 1, 1999. Res. No. 2010-63 was approved at an election held Nov. 2, 2010, with the amendments effective Jan. 1, 2011.

ARTICLE IV. HOME RULE CHARTER TRANSITION, AMENDMENTS, REVIEW, EFFECTIVE DATE

Sec. 4.1. Home rule charter transition.

Unless expressly provided for otherwise in this home rule charter, the adoption of this home rule charter shall not affect any existing obligations of Charlotte County, the validity of any of its

ordinances, or the term of office of any elected county officer, which term shall continue as if this charter had not been adopted.

Sec. 4.2. Home rule charter amendments.

A. *Amendments proposed by the board of county commissioners.* Amendments to this home rule charter may be proposed by ordinance adopted by the board of county commissioners by an affirmative vote of a majority of the total membership of the board of county commissioners, provided that any such amendment shall embrace but one (1) subject and matter directly connected therewith, subject to approval by a majority of those registered electors of Charlotte County voting in a referendum at the next general election.

B. *Amendments proposed by initiative.*

(1) The home rule charter may also be amended by initiative upon petition by a number of electors equal to at least ten (10) percent of the number of electors qualified to vote in the county as a whole in the last preceding general election, provided that any such amendment shall embrace but one (1) subject and matter directly connected therewith. A charter amendment proposed by initiative shall be placed on the ballot by resolution of the board of county commissioners for the general election occurring in excess of ninety (90) days from the certification by the supervisor of elections that the requisite number of signatures have been verified.

(2) The sponsor of an initiative 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 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 signature will be affixed, and said drive shall terminate six (6) months after that date. In the event sufficient signatures are not acquired during the six-month period, the petition drive 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, who shall within thirty (30) days verify the signatures thereon.

(3) 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 specified, on January 1 of the succeeding year.

C. *Amendments and revisions by charter review commission.*

(1) A charter review commission consisting of fifteen (15) members and three (3) alternates shall be appointed by the board of county commissioners at least eighteen (18) months before the general election occurring in 2016 and at least eighteen (18) months before the general election occurring every (6) years thereafter, to review the home rule charter and propose any amendments or revisions which may be advisable for placement on the general election ballot. No elected officer shall be a member of the charter review commission, and no member may be appointed who has served three (3) full terms as a voting member of the charter review commission. The three (3) alternates shall be non-voting participants on the charter review commission and shall, in the order of their original selection by the county commission, fill vacancies on the charter revision commission. Additional vacancies on the charter review commission shall be filled within thirty (30) days in the same manner as the original appointments. Members and alternates of the charter review commission shall be a registered voter of Charlotte County and reside within the county for at least six (6) months immediately prior to the time of

appointment and during the term of the appointment. Any member or alternate who shall remove his or her residency from Charlotte County shall be deemed to have resigned from the charter review commission.

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

(3) Expenses of the charter review commission shall be verified by a majority vote of the commission and forwarded to the board of county commissioners for payment from the general fund of the county. The charter review commission 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 commission 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 electorate for adoption unless favorably voted upon by a majority of the entire membership of the charter review commission.

(5) No later than ninety (90) days prior to the general election, the charter review commission shall deliver to the board of county commissioners the proposed amendments or revisions, if any, to the home rule charter, and the board of county commissioners shall place such amendment or revision on the general election ballot by resolution. If a majority of the electors voting on the amendments or revisions 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 it does not submit any proposed charter amendments or revisions to the board of county commissioners at least ninety (90) days prior to the election, the charter review commission shall be automatically dissolved. Otherwise, upon acceptance or rejection of the proposed amendments or revisions by the electors, the charter review commission shall be automatically dissolved. Upon dissolution of the charter review commission, all property of the charter review commission shall thereupon become the property of the county.

(Res. No. 92-192, § 3(6, 7), 9-8-92; Res. No. 98-094, § 3(4), 7-28-98; Res. No. 2010-63, §§ 6, 9, 7-27-10; Res. No. 2016-099, § 5, 7-12-16)

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Sec. 4.3. Home rule charter effective date.

This charter shall become effective on January 1, 1986.

CHARTER COMPARATIVE TABLE

This table provides a listing of ordinances amending the home rule charter and their disposition therein. The home rule charter became effective on January 1, 1986.

TABLE INSET:

Ordinance Number	Adoption Date	Section	Section this Charter
88-9	4-26-88	2	2.3.A(4)
92-192 (Res.)	9-8-92	3(1)	1.1, 2.2.D
		(2)	2.2.D
		(3)	2.2.I
		(4)	2.3.E
		(5)	2.2.H
		(6)	4.2.B(2)
		(7)	4.2.C(1)
		(8)	2.2.E
98-94 (Res.)	7-28-98	3(1)	2.2.A
			3.1, 3.2
		(2)	2.3.C
		(3)	2.2.I(3)
		(4)	4.2.C(1)
		(5), (6)	1.3.A, B
2004-176 (Res.)	8-10-04	3 Added	2.2.J
		4 Added	2.2.K
2010-63 (Res.)	7-27-10	2	2.2.A
		3	2.2.D
		4	2.2.J, K
		5	3.2
		6	4.2.C(1)
		7 Added	1.5
		8 Added	2.3.F
			2.3.B(1), (2)
		9	4.2.C(1)
2016-099 (Res.)	7-12-16	4 Added	2.2.H(2)
		5	4.2.C(1)