

Polk County Charter

As Amended On

November 5, 2024



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PREAMBLE

***THE PEOPLE OF POLK COUNTY, FLORIDA**, by the grace of God free and independent, in order to attain greater self-determination, to exercise more control over our own destiny, to create a more responsible and effective government, and to guarantee constitutional rights to all equally, do hereby ordain and establish this Home Rule Charter as our form of government for Polk County.*

ARTICLE 1

Creation, Powers and Ordinances of Home Rule Charter Government

1.1 Creation and general powers of home rule charter government

Polk County shall be a home rule charter county, and, except as may be limited by this Home Rule Charter, shall have all powers of self-government granted now or hereafter by the Constitution and laws of the State of Florida.

1.2 Body corporate, name and boundaries

Polk County shall be a body corporate and politic. The corporate name shall be Polk County. The county seat and boundaries shall be those designated by law on the effective date of this Charter.

1.3 Construction

The powers granted by this Home Rule Charter shall be construed broadly in favor of the charter government. The specified powers in this Charter shall not be construed as limiting, in any way, the general or specific power of the government, as stated in this article. It is the intent of this article to grant to the charter government full power and authority to exercise all governmental powers necessary for the effective operation and conduct of the affairs of the charter government.

1.4 Special powers and duties of county

1.4.1 County purposes **The county, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.**

1.4.2 Municipal purposes The county shall have all necessary powers to accomplish municipal purposes within special districts. Property situated within municipalities shall not be subject to taxation for services rendered by the county exclusively for the benefit of the property or residents not within municipal boundaries, nor shall property situated in the county be subject to taxation for services provided by the county exclusively for the benefit of the property or residents within municipal boundaries. To this end, the Board of County Commissioners may, by ordinance, create districts for the purpose of levying ad valorem taxes and special assessments to pay for the furnishing of municipal services, and the tax imposed shall be within the limits of millage set for municipal purposes. Should such services be furnished within a municipality, the total millage levied by the municipality and the county district levy for this municipal purpose shall not exceed the maximum millage set by law for municipal purposes.

1.5 Transfer of powers

Whenever a municipality, special district or agency shall request the performance or transfer of a function to the county, the county shall have the power and authority to assume and perform such functions and obligations. This section does not authorize a transfer in violation of Article VIII, ' 4 of the Constitution of Florida.

1.6 Division of powers

This Charter hereby establishes the separation between legislative and administrative functions of this government. The establishment and adoption of policy shall be the responsibility of the Board of County Commissioners and the execution of that policy shall be the responsibility of the county manager.

1.7 Relation to state law

The provisions of this 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.

1.8 Relation to municipal ordinances

Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over county ordinances to the extent of any conflict. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.

ARTICLE 2

Legislative Branch: Board of County Commissioners

2.1 Composition

There shall be five county commissioners' districts in Polk County, which shall be numbered one to five, inclusive, and shall be as nearly equal in proportion to population as possible. There shall be one county commissioner for each of such districts, who shall be elected by the qualified voters of the county.

2.2 Redistricting

In the first odd-numbered year after each decennial census, the Board of County Commissioners shall divide the county into districts of contiguous territory, following the existing boundaries of municipalities where possible and as nearly equal in population as possible. The Board of County Commissioners may redivide the districts in any other odd-numbered year. Whenever the boundaries of existing county commissioners' districts are changed by the Board of County Commissioners, it shall cause an accurate description of the boundaries of such districts, as changed, to be entered upon its minutes and a certified copy thereof to be published once each week for four (4) consecutive weeks in a newspaper published in the county. Proof of such publication shall be entered on the minutes of the Board of County Commissioners. The publication of such copy shall be for information only and shall not be jurisdictional.

2.3 Qualifications

County commissioners shall be qualified electors of the county. Commissioners shall reside one in each of the commission districts. Candidates shall reside in their respective

districts at the time of qualifying to run or at the time of appointment to any vacancy. Any commissioner who shall remove his or her residency from the district for which he or she is elected shall thereupon become disqualified to represent said district and the office of any such commissioner shall be deemed vacant, except that any commissioner who is removed from a district by redistricting may continue to serve during the balance of the term of office. No person may appear on the ballot for re-election to the office of Commissioner to the Polk County Board of County Commissioners if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) as a Commissioner for twelve (12) consecutive years. Service in a term of office that commenced before November 20, 2018, shall be counted against the term limitation imposed by this Section.

2.4 Terms of office

Each commissioner shall be elected for a term of four (4) years, beginning on the second Tuesday after election, and continuing after such term until his or her successor is elected and qualified. Terms shall be staggered so that one more or one less than half of the commissioners elected from residence areas are elected every two years.

2.5 Salary and other compensation

The yearly salary and other compensation of commissioners serving on the Board of County Commissioners shall be \$33,500 effective with the Commission term of office beginning in November 2000. The Board of County Commissioners may amend the salary established in this Charter by ordinance, which requires, for passage, the unanimous vote of the members of the entire Board of County Commissioners. Any increase shall not exceed the average percentage increase in the salaries of county employees for the fiscal year just concluded, or the percentage change in the U.S. consumer price index for the previous year, whichever is less. Any salary increase shall not be effective until the first day of January in the year following the adoption of the increase.

Section 2.5 as amended, shall apply to all commissioners elected on or after the date the amendment is approved by the electors.

2.6 Vacancies and suspensions

Vacancies in any county commissioner's office or other elected county office shall be filled in accordance with the Constitution and general laws of Florida. Commissioners

and other elected officers may be suspended from office in accordance with the Constitution and general laws of Florida.

2.7 Meetings

The organizational meeting of the Board of County Commissioners shall be held on the third Tuesday following the first Monday in November of each year.

The Board of County Commissioners shall provide by resolution for the location, time and place for holding all regular meetings of the Board of County Commissioners. At its organizational meeting the Board of County Commissioners shall elect a chairman and vice-chairman by majority vote to serve for a period of one (1) year, and shall each year thereafter elect from its membership a chair and a vice-chair, who may succeed themselves.

2.7.1 Special meetings Special meetings may be held on call of the chair or two (2) or more commissioners. Upon call for a special meeting, the county manager shall give adequate public notice of the time, place, and purpose of the meeting in accordance with the procedures established in the administrative code. Action by the Board of County Commissioners at a special meeting shall be limited to the purpose for which the special meeting was called.

2.7.2 Location of meetings The Board of County Commissioners shall meet at the county seat except that it may determine by resolution, from time to time, the place or places within the county at which the Board of County Commissioners shall meet for the purpose of conducting its business, provided that the notice of the time and place shall be published in a newspaper of general circulation in the county at least one (1) week prior to the holding of any such meeting outside the county seat. Such notice shall contain an agenda of all matters to be acted upon.

2.8 Powers

The Board of County Commissioners shall have all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and laws of Florida, provided that such powers shall be exercised in a manner consistent with this Charter. The Board of County Commissioners, in addition to the powers and duties provided in the Charter, shall have the specific powers and duties to:

- (1) Appoint and reappoint the county manager by a vote of a majority of the entire Commission, and remove the county manager during a contract term by a majority vote at each of two successive regular meetings.
- (2) Adopt such ordinances as may be necessary to carry out both county and municipal powers and purposes.
- (3) Review the budgetary requests including salaries and make the final budgetary determinations and appropriations for all county governmental operations including but not limited to county management, all administrative departments of the government, adjustment boards and special authorities and tax districts which request a portion of the millage levied for county purposes under the Constitution of Florida or such other millage as may be levied by the county for municipal service districts, excepting the school system.
- (4) Adopt by a two-thirds vote of the full Board of County Commissioners such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the Board of County Commissioners.
- (5) Designate which officers and employees shall be bonded and fix the amount and approve the form of the bond.
- (6) Exercise any power of the county not lodged in any other office by this Charter.

2.9 Legislative procedures

The Board of County Commissioners may take official action only by the adoption of ordinances, resolutions or motions. Except as otherwise provided by this Charter, all ordinances, resolutions or motions shall be adopted by majority vote in accordance with the provisions of the Constitution and laws of Florida. A majority of the full Board of County Commissioners shall constitute a quorum and an absolute majority shall be required to adopt, amend or repeal any ordinance. A majority of those present shall be required to adopt, amend or repeal a resolution or motion under the terms of this provision. All commissioners in attendance, including the chairman or presiding officer, shall vote on all Board of County Commissioners actions except when prevented from doing so by a provision of general law.

2.10 Code of ordinances

The Board of County Commissioners shall provide for the authentication and recording in full, in a properly indexed book kept for the purpose, of all minutes of meetings, ordinances and resolutions adopted by the Board of County Commissioners and the same shall, at all times, be a public record. The Board of County Commissioners shall further maintain a current codification of all ordinances. Such codification shall be published and made available for distribution on a continuing basis.

ARTICLE 3

Administrative Branch: County Manager

3.1 County Manager: Qualifications

There shall be a county manager who shall be appointed by the Board of County Commissioners and who shall serve at the pleasure of the Board of County Commissioners. The county manager shall be chosen on the basis of his or her professional training, executive and administrative experience and qualifications. The manager shall maintain residency within the county during the tenure of office and shall not engage in any other business or occupation without the express approval of the Board of County Commissioners.

3.2 Compensation and terms of employment

The Board of County Commissioners shall establish the salary for the county manager at a level that is commensurate with the requirements of the position and shall at least annually review the performance and salary. Terms and conditions of compensation and employment shall be set forth in a contract.

3.3 Powers and duties

The county manager shall be head of the administrative branch of county government, and shall be responsible to the Board of County Commissioners for the proper administration of all affairs of the county. The county manager shall attend all regular and special meetings of the Board and shall have the right to participate in its discussions.

3.4 Non-interference by Board of County Commissioners

Except for the purpose of inquiry and information, members of the Board of County Commissioners are expressly prohibited from interfering with the performance of the duties of any employee of the county government who is under the direct or indirect

supervision of the county manager. Such action shall be malfeasance within the meaning of Article IV, Section 7(a) of the Florida Constitution.

3.5 Temporary absence or incapacity

The Board of County Commissioners may appoint an acting manager in the case of vacancy or temporary absence or disability of the county manager, until a successor has been appointed and qualified or until the county manager returns.

ARTICLE 4

Administrative Departments

4.1 Initial departments

The following initial departments are hereby established for the charter government:

Those departments existing upon adoption of this Charter.

4.2 Department directors and executive service personnel

The director of each department shall be the principal officer of the department. Directors and executive service employees of departments shall be appointed by the county manager, subject to confirmation by a majority vote of the Board of County Commissioners, and shall serve at the pleasure of the county manager. The county manager shall have the right to discharge any department head or executive service employee, with or without cause.

4.3 County attorney/department of legal services

There shall be a department of legal services directed by an attorney appointed by the Board of County Commissioners. The county attorney shall be responsible to the Board of County Commissioners, and may be discharged by the Board by a majority vote. The Board shall have the power and authority to acquire other necessary legal services to carry out the duties and responsibilities of county government.

ARTICLE 5

County Constitutional Officers

5.1 County constitutional officers

The constitutional offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections shall remain as elected constitutional officers, and their powers, duties and functions will not be altered by this Home Rule Charter. The

constitutional officers shall perform their executive and administrative functions as specified by law.

5.2 Non-partisan election¹

5.2.1 Non-partisan offices Commencing with the primary and general elections in the year 2004, the offices of Clerk of Circuit Court, Property Appraiser, Sheriff, Supervisor of Elections, and Tax Collector shall be nonpartisan.

5.2.2 Non-partisan election procedures If three or more candidates, neither of whom is a write-in candidate, qualify for such office, the names of those candidates shall be placed on a non-partisan ballot at the first primary election. If no candidate for such office receives a majority of the votes cast for such office in the first primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot.

5.2.3 Qualification by petition A candidate for non-partisan office may qualify for election to such office by means of the petitioning process provided in general law.

5.2.4 Other provisions In all respects not expressly provided in this charter, non-partisan elections shall be governed by the procedures set forth in general law for non-partisan judicial elections, provided that nothing therein shall impair the constitutional rights of candidates to freedom of expression and association.

5.2.5 Preservation of constitutional offices If any provision in this Section 5.2 shall impair the status of the office as a constitutional county office, this section shall have no force and effect.

ARTICLE 6

¹ Editor's note(s)-The Supreme Court held in *Orange County v. Singh*, 268 So.3d 668 (2019), that a charter provision requiring non-partisan elections is preempted by the Florida Election Code. The Florida Department of State in a letter dated August 4, 2023, citing *Orange County v. Singh*, directed the Polk County Supervisor of Elections to hold partisan elections for county constitutional officers in accordance with section 99.061, Florida Statutes, allowing candidates to run as a partisan, no-party-affiliated, or write-in candidate. Note placed by the County Attorney pursuant to direction by the Polk County Board of County Commissioners on August 8, 2023.

Powers Reserved to the People: Initiative and Recall

6.1 Initiative

The electors of Polk County shall have the right to initiate county ordinances in order to establish new legislation that is not in conflict with the State Constitution, general law or this Charter, and to amend or repeal existing ordinances when such amendments or repeal are not in conflict with the State Constitution or general law, upon petition signed by a number at least equal to six percent of electors qualified to vote in the last preceding general election; provided that the number shall contain at least six percent of the qualified electors in each commission election district.

6.1.1 Procedure for petition The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. Any such ordinance shall embrace but one subject, and matter directly connected therewith. The sponsor shall cause a notice of such submission to be published within fourteen (14) days thereof in a newspaper of general circulation in the county. The allowable period for obtaining signatures on the petition shall be completed not later than one year after initial receipt of the petition by the Supervisor of Elections. The sponsor shall comply with all requirements of general law for political committees, and shall file quarterly reports with the Supervisor of Elections stating, to the best of the sponsor's information and belief, the number of signatures procured. The time and form of such reports may be prescribed by ordinance. When a sufficient number of signatures is obtained, the sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections and upon submission shall pay all fees required by general law. The Supervisor of Elections shall, within sixty (60) days after submission, verify the signatures thereon, or specify a reason for the invalidity of each rejected signature if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days verify the additional signatures. In the event sufficient signatures are still not acquired, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition.

6.1.2 Consideration by Board of County Commissioners

Within sixty (60) days after the requisite number of names has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the Board fails to enact 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 at least sixty percent (60%) of electors voting in said election, 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 initiative prior to the next succeeding general election, without approval of a majority of the electors voting at a referendum called for that purpose.

6.1.3 Limitation on ordinances by initiative The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to the county budget, debt obligations, capital improvement programs, salaries of county officers and employees, the assessment or collection of taxes, or the rezoning of land.

6.2 Recall

The County Commissioners shall be subject to recall as provided by general law. Any elected constitutional county officer may be recalled in the manner provided by general law for removal of a county commissioner of a charter county. A successor to the unexpired term of office of any recalled commissioner or elected constitutional county officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties. If the provision for recall of elected constitutional county officers causes such officers to lose their constitutional status, this provision shall not apply to such officers.

6.3 Public participation and inclusion

When appointments to all of the county's boards and committees are taken as a whole, the Board of County Commissioners should endeavor to include citizens from all segments of society in the county, reflecting the differing viewpoints, gender, age, life

experiences, geography, professions, races and ethnic backgrounds of the citizens of the county. Nevertheless, each individual appointment shall be based on the competence, expertise and merit of the appointee, and nothing in this section shall give any person standing to enforce this provision or to contest any appointment.

ARTICLE 7

Special Districts and Authorities

As provided in Article VIII, §1(g) and §6 of the State Constitution, the Board of County Commissioners may by ordinance amend or repeal any local or special act of the Legislature applicable solely to the unincorporated area of the county.

ARTICLE 8

Miscellaneous Provisions

8.1 Effective date

This Charter shall become law when approved by a majority of those electors voting on the matter in a referendum to be held in the county in November 1998 under the provisions of the Constitution and laws of Florida. The Charter Government shall assume all powers and duties provided by this Charter on the first day of January 1999, the effective date of this Charter.

8.2 Transition

8.2.1 Continuation of laws, ordinances and contracts Unless expressly provided otherwise in this Charter, the adoption of this Charter shall not affect any existing contracts or obligations of Polk 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.

8.2.2 Initial county commissioners The persons comprising the Polk 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 expiration of their terms or until qualification of their successors as provided by law.

8.2.3 Initial County Manager and Attorney The county administrator and county attorney employed on the effective date of this Charter shall serve as the county manager and county attorney respectively, subject to termination and replacement as provided herein.

8.2.4 Employee continuation All employees of the former county government shall on the effective date of this Charter become employees of the county government

created by this Charter. All existing wages, benefits, collective bargaining certifications and agreements, contracts and conditions of employment shall continue, until modified by lawful action of the Board of County Commissioners.

8.2.5 Continuation of agencies and advisory bodies All existing appointments or designations of non-governmental agencies or corporations to act as official agencies of the county shall remain in full force and effect in accordance with their original terms, until amended or terminated by the Board of County Commissioners in accordance with the terms of such appointment and the provisions of this Charter. All members of advisory boards, resource groups or committees appointed for terms expiring after the effective date of this Charter shall continue to serve their terms without necessity of reappointment under this Charter.

8.2.6 Outstanding bonds All 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.

8.3 Charter amendment

8.3.1 Amendment by Board of County Commissioners The Board of County Commissioners, upon the concurrence of a majority plus one of the entire number of members, shall have the authority to propose by ordinance amendments to this Charter not inconsistent with the State Constitution or with general law.

8.3.2 Amendment by petition Amendments to this Charter, not inconsistent with the State Constitution or with general law, may be proposed by a petition signed by at least seven percent of the qualified electors from each county commission district, provided that any such amendment shall embrace but one subject and matter directly connected therewith. The sponsor of an amendment shall, prior to obtaining any signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed. The procedures for initiative petitions set forth in Section 6.1.1 of this Charter shall thereafter be followed. The power to amend this Charter by initiative shall not extend to budgets, debt

obligations, capital improvement programs, salaries of non-elected county officers and employees, the assessment or collection of taxes, or the rezoning of land.

8.3.3 Amendment referendum The Board of County Commissioners shall cause any Charter amendment proposed under Section 8.3.1 or 8.3.2 to be submitted to the electors for their approval. The question shall be placed on the ballot at the next general election occurring at least sixty (60) days after the Charter amendment is proposed or validated. Notice of said referendum, together with the language of the proposed amendment, shall be published at least twice in a newspaper of general circulation in the county, at intervals of at least seven (7) days, but not less than five (5) nor more than thirty (30) days prior to the referendum. Passage of proposed amendments shall require approval of at least sixty percent (60%) of electors voting in said election.

8.4 Charter review

Notwithstanding the inherent power of the Board of County Commissioners to propose one or more amendments to the Charter of the county or to create a special advisory board to review one or more provisions of the Charter of the county, not later than May 1 of the year 2035 and of every twelfth year thereafter, the Board of County Commissioners shall appoint a Charter Review Commission to review the Charter of the county. The Chair of the Board of County Commissioners shall appoint three members of the Charter Review Commission, and each other member of the Board of County Commissioners shall appoint two members of the Charter Review Commission. The county constitutional officers, by majority vote, shall appoint two members. No elected official may serve on the Charter Review Commission. Upon the death, resignation or removal of any member of the Charter Review Commission, the county commissioner who made that appointment, or the majority of county constitutional officers who made that appointment shall appoint a successor. The commission shall be funded by the Board of County Commissioners and shall be known as the "Polk County Charter Review Commission." It shall, within one (1) year from the date of its first meeting, present to the Board of County Commissioners, its recommendations for amendment or revision of the Charter or its recommendation that no amendment or revision is appropriate. If amendment or revision is to be recommended, the Charter Commission shall conduct three (3) public hearings, at intervals of not less than ten (10) days, immediately prior to the transmittal of its recommendations to the Board of County Commissioners. The

Board of County Commissioners shall schedule a referendum on the proposed charter amendments or revisions concurrent with the next general election. The Charter Review Commission may remain in existence until the general election for purposes of conducting and supervising education and information on the proposed amendments or revisions. Appointments to the Charter Review Commission should reflect the standards set forth in Section 6.3 of this Charter.

8.5 Severability and validity

If any part of this Charter is held invalid or unconstitutional, the remainder thereof shall remain in full force and effect.

8.6 Polk County Efficiency Commission

The Polk County Charter Review Commission may, by resolution approved by majority of the members appointed, conduct a comprehensive study, including but not limited to, the organization, structure, effectiveness and efficiency of any board, officer, authority, agency, division, department or other unit of government included within the budget approved by the Polk County Board of County Commissioners. Within one (1) year of adoption of the resolution, the Polk County Charter Review Commission shall provide a report of the findings from the study to the Polk County Board of County Commissioners and the County Manager. Not later than one (1) year after the delivery of the report from the Polk County Charter Review Commission, the County Manager shall deliver a compliance report to the Polk County Board of County Commissioners showing actions taken, pending or refused by the County.

8.7 Referenda to be held at General Elections

Any referenda required by this Charter, and any referenda required by general law before local option sales taxes may be levied pursuant to Section 212.055, Florida Statutes, must be submitted to the electors at the next general election occurring at least sixty (60) days after the referendum is called for.