

ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

**ORDINANCE 2020-**

**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, PROPOSING AN AMENDMENT TO THE ALACHUA COUNTY CHARTER REGARDING CONFLICTS BETWEEN COUNTY AND MUNICIPAL ORDINANCES RELATING TO CERTAIN NATURAL RESOURCE PROTECTION STANDARDS; PROVIDING FOR A REFERENDUM ON THE QUESTION OF ADOPTION OF THE PROPOSED AMENDMENT TO THE COUNTY CHARTER; PROVIDING AN EFFECTIVE DATE OF THE CHARTER AMENDMENT, IF APPROVED BY A MAJORITY OF ELECTORS; PROVIDING FOR INCLUSION IN THE CODE AND CORRECTION OF SCRIVENER'S ERRORS; PROVIDING FOR SEVERABILITY; PROVIDING FOR LIBERAL CONSTRUCTION AND INTERPRETATION; ALLOWING FOR MODIFICATION OF THE LANGUAGE OF THE ORDINANCE DUE TO CONSIDERATIONS ARISING AT A PUBLIC HEARING; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Alachua County established a charter form of government pursuant to the provisions of Chapter 125, Part IV, Florida Statutes, effective January 1, 1987; and

**WHEREAS**, the Alachua County Board of County Commissioners adopted an ordinance to approve the Alachua County Home Rule Charter (“*C h a r t e r*”) on September 9, 1986, and the Charter was approved by a majority of all voters voting in the special election held as part of the general election on November 4, 1986; and

**WHEREAS**, the Charter provides that amendments to the Charter may be proposed by an ordinance adopted by the Board of County Commissioners by an affirmative vote of a majority plus one of the membership of the Board of County Commissioners; and

**WHEREAS**, the Florida Constitution, Article VIII, Section 1(g) provides that a County Charter shall provide which ordinance shall prevail in the event of conflict between County and municipal ordinances, and

**WHEREAS**, the Board of County Commissioners desires to propose an ordinance for adoption to amend the Alachua County Charter Section 1.4, Relation to Municipal Ordinances, to add ordinances protecting listed species habitat, significant geologic features, strategic ecosystems, or significant habitat, all of which are defined in the Alachua County Comprehensive Plan, to the existing Charter provision which provides that if both county and municipal ordinances establish different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, then the ordinances imposing more stringent standards shall prevail to the extent of the difference and be enforceable within the boundaries of municipalities, and

**WHEREAS**, the proposed amendment serves the important county purpose of providing for the protection of natural resources countywide regardless of whether they are located within unincorporated areas or municipalities by ensuring that, if there are conflicts between County and municipal ordinances concerning the protection of certain natural resources, the more stringent of those ordinances shall prevail to the extent of the conflict, and be enforceable within the boundaries of municipalities, and

**WHEREAS**, the Board of County Commissioners has determined that this amendment, if approved by the electors of the County, shall be effective county-wide.

**NOW THEREFORE, BE IT ORDAINED BY THE COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:**

**SECTION 1. Authorization and Legislative Findings.** This Ordinance is authorized by Chapter 125, Part IV, Florida Statutes, and Article IV, Sections 4.2(C) and 4.2(D), Alachua County Charter, and other applicable law. The Board of County Commissioners finds and declares that all the statements set forth in the preamble of this ordinance are true and correct.

**SECTION 2. Amendments to the Alachua County Home Rule Charter.** The proposed amendment to the Alachua County Charter, set forth in Exhibit “A”, attached hereto and incorporated herein, is proposed for adoption in accordance with Subsection 4.2(C)(1), Alachua County Charter.

**SECTION 3. Referendum.**

a. The proposed amendment to the Alachua County Charter in Section 2 of this ordinance shall be presented to the County electorate on the ballot at the general election to be held on November 3, 2020.

b. The Supervisor of Elections of Alachua County shall cause the following question to be placed on the ballot at the general election to be held on November 3, 2020:

**RELATIONSHIP BETWEEN COUNTY AND MUNICIPAL ORDINANCES  
PROTECTING CERTAIN NATURAL RESOURCES**

SHALL THE ALACHUA COUNTY CHARTER SECTION 1.4, WHICH ADDRESSES CONFLICTS BETWEEN COUNTY AND MUNICIPAL ORDINANCES REGULATING CERTAIN TYPES OF POLLUTION, BE AMENDED TO ADD ORDINANCES PROTECTING CERTAIN NATURAL RESOURCES TO THE PROVISION THAT IF BOTH COUNTY AND MUNICIPAL ORDINANCES ESTABLISH DIFFERENT STANDARDS, THEN THE ORDINANCES IMPOSING MORE STRINGENT STANDARDS SHALL PREVAIL TO THE EXTENT OF THE DIFFERENCE AND BE ENFORCEABLE WITHIN THE BOUNDARIES OF MUNICIPALITIES?

\_\_\_ YES

\_\_\_ NO

**SECTION 4. Effective Date of Charter Amendment.**

This amendment to the Alachua County Charter adopted as set forth in Exhibit "A" shall be effective on January 1, 2021, only if approved by a majority of the electors voting in the general election to be held on November 3, 2020.

**SECTION 5. Inclusion in the Code, Scrivener's Error.** It is the intention of the Board of County Commissioners of Alachua County, Florida, and it is hereby provided that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section," "article," or other appropriate designation. The correction of typographical errors which do not affect the intent of the ordinance may be authorized by the County Manager or designee without public hearing, by filing a corrected or recodified copy of the same with the Clerk of the Circuit Court.

**SECTION 6. Severability.** It is the declared intent of the Board of County Commissioners that, if any section, sentence, clause, phrase or provision of this ordinance is for any reason held or declared to be unconstitutional, void, or inoperative by a court or agency of competent jurisdiction, such holding of invalidity or unconstitutionality shall not affect the remaining provisions of this ordinance, and the remainder of this ordinance after the exclusion of such part or parts shall be deemed to be valid.

**SECTION 7. Liberal Construction and Interpretation.** This ordinance shall be liberally construed in order to effectively carry out the purposes hereof which are deemed to be in the best interest of the public health, safety, and welfare of the citizens and residents of Alachua County, Florida.

**SECTION 8. Modification.** It is the intent of the Board of County Commissioners that the provisions of this ordinance may be modified as a result of considerations that may arise during public hearings. Such modifications shall be incorporated into the final version of the ordinance adopted by the Board and filed by the Clerk to the Board.

**SECTION 9. Effective Date.** A certified copy of this ordinance shall be filed with the Department of State by the Clerk of the Board of County Commissioners within ten (10) days after enactment by the Board of County Commissioners, and this ordinance shall take effect upon filing with the Department of State.

**DULY ADOPTED** in regular session by an affirmative vote of a majority plus one of the membership of the Board of County Commissioners this \_\_\_\_\_ day of \_\_\_\_\_, 2020.

BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA

ATTEST:

By: \_\_\_\_\_  
Robert Hutchinson, Chair

\_\_\_\_\_  
J.K. "Jess" Irby, Esq., Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Alachua County Attorney

## EXHIBIT A

**Section 1.4, Relation to Municipal Ordinance**, of the Alachua County Home Rule Charter is hereby amended to read:

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

#### **Sec. 1.4. - Relation to municipal ordinances.**

Except as otherwise provided in this Charter, Mmunicipal ordinances shall prevail over county ordinances to the extent of any conflict. Notwithstanding the foregoing, if the county and a municipality enact ordinances establishing different standards for the purpose of protecting the environment by prohibiting or regulating air or water pollution, or for the purpose of protecting listed species habitat, significant geologic features, strategic ecosystems, or significant habitat, all of which are defined in the Alachua County Comprehensive Plan, the ordinances imposing more stringent standards shall prevail to the extent of the difference and be fully enforceable within the boundaries of such municipality; however, the ordinances imposing less stringent standards shall not be deemed to conflict with ordinances imposing more stringent standards and shall also be fully enforceable within the boundaries of such municipality.