

1 ALACHUA COUNTY
2 BOARD OF COUNTY COMMISSIONERS

3 ORDINANCE 2020-

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6 **AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS**
7 **OF ALACHUA COUNTY, FLORIDA, PROPOSING AN AMENDMENT**
8 **TO SECTION 1.4 OF THE ALACHUA COUNTY HOME RULE**
9 **CHARTER REGARDING CONFLICTS BETWEEN COUNTY AND**
10 **MUNICIPAL ORDINANCES RELATING TO CERTAIN NATURAL**
11 **RESOURCE PROTECTION STANDARDS; PROVIDING FOR A**
12 **REFERENDUM ON THE QUESTION OF ADOPTION OF THE**
13 **PROPOSED AMENDMENT TO THE COUNTY CHARTER;**
14 **PROVIDING AN EFFECTIVE DATE AND COUNTYWIDE EFFECT OF**
15 **THE CHARTER AMENDMENT, IF APPROVED BY A MAJORITY OF**
16 **ELECTORS; PROVIDING FOR INCLUSION IN THE CODE OF LAWS**
17 **AND ORDINANCES OF ALACHUA COUNTY AND CORRECTION OF**
18 **SCRIVENER’S ERRORS; PROVIDING FOR SEVERABILITY;**
19 **PROVIDING FOR LIBERAL CONSTRUCTION AND**
20 **INTERPRETATION; ALLOWING FOR MODIFICATION OF THE**
21 **LANGUAGE OF THE ORDINANCE DUE TO CONSIDERATIONS**
22 **ARISING AT A PUBLIC HEARING; PROVIDING AN EFFECTIVE**
23 **DATE.**

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

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

32 **WHEREAS**, the Charter provides that amendments to the Charter may be proposed
33 by an ordinance adopted by the Board of County Commissioners by an affirmative vote of a

34 majority plus one of the membership of the Board of County Commissioners; and

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

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

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

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

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

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

62 **SECTION 2. Amendments to the Alachua County Home Rule Charter.** The
63 proposed amendment to the Alachua County Charter, set forth in Exhibit “A”, attached
64 hereto and incorporated herein, is proposed for adoption in accordance with Subsection
65 4.2(C)(1), Alachua County Charter.

66 **SECTION 3. Referendum.**

67 a. The proposed amendment to the Alachua County Charter in Section 2 of this
68 ordinance shall be presented to the County electorate on the ballot at the general election to be
69 held on November 3, 2020.
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71 b. The Supervisor of Elections of Alachua County shall cause the following
72 question to be placed on the ballot at the general election to be held on November 3, 2020:

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79 **RELATIONSHIP BETWEEN COUNTY AND MUNICIPAL ORDINANCES**
80 **FOR PROTECTION OF CERTAIN NATURAL RESOURCES**
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82 SHALL THE ALACHUA COUNTY HOME RULE CHARTER SECTION 1.4 BE AMENDED TO
83 AUTHORIZE COUNTYWIDE PROTECTION OF CERTAIN NATURAL RESOURCES BY
84 ESTABLISHING THAT THE MORE STRINGENT OF COUNTY OR MUNICIPAL ORDINANCES
85 FOR SUCH PURPOSE SHALL PREVAIL TO THE EXTENT OF ANY CONFLICT AND BE
86 ENFORCEABLE COUNTYWIDE?

87 ___ YES
88

89 ___ NO

90 **SECTION 4. Effective Date of Charter Amendment.**
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92 This amendment to the Alachua County Charter adopted as set forth in Exhibit "A" shall
93 be effective on January 1, 2021, only if approved by a majority of the electors voting in the general
94 election to be held on November 3, 2020.

95 **SECTION 5. Inclusion in the Code, Scrivener's Error.** It is the intention of the Board

96 of County Commissioners of Alachua County, Florida, and it is hereby provided that the
97 provisions of this ordinance shall become and be made a part of the Code of Laws and
98 Ordinances of Alachua County, Florida; that the sections of this ordinance may be renumbered
99 or re-lettered to accomplish such intention; and that the word "ordinance" may be changed to
100 "section," "article," or other appropriate designation. The correction of typographical errors
101 which do not affect the intent of the ordinance may be authorized by the County Manager or
102 designee without public hearing, by filing a corrected or recodified copy of the same with the
103 Clerk of the Circuit Court.

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

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

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

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

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

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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 Ordinances, 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. Effective countywide and 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.