

Draft Home Rule Charter Amendment

Text of the Amendment:

The Home Rule Charter of Orange County is amended to add Section 704.1 as follows:

Section 704.1 Ecosystem and Environmental Rights

A. Rights of Ecosystems and People

1. The Wekiva River, Econlockhatchee River, and all other waters of Orange County possess rights, including but not limited to, rights to naturally exist, flourish, regenerate, evolve, rehydrate and restoration; the right to carry out their natural function; the right to abundant, clean water, the right to natural groundwater recharge and surface water recharge; the right to natural water flow; the right to a healthy, natural, biodiverse environment; and the right to be free of activities or practices, as well as obstructions, that interfere with or infringe upon these rights. The rights of the ecosystem secured in this system shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on these ecosystems.
2. The citizens of Orange County possess the right to clean water, and a healthy environment and the right to be free of activities or practices that interfere with or infringe upon this right.

B. Enforcement and Implementation

1. The county shall take all necessary actions to implement, defend and enforce the provisions of this section.
2. Any citizen of Orange County may enforce or defend any provision of this section in any appropriate court through an action brought in the name of the ecosystem as the real party in interest, and shall have the right to intervene in any action concerning this section. Courts shall have the power to grant injunctive and equitable relief against the County or non-natural person to enforce the provisions of this section.
3. This provision shall preempt any municipal ordinance or regulation which provides less strict protections of the Wekiva River, Econlockhatchee River, or other waters of Orange County.

C. Violations

1. It shall be unlawful to violate any provision of this section.

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2. Any governmental entity or non-natural person that violates any provision of this section shall be liable for any damages caused to an ecosystem named in this section as a result of the violation. Damages, less reasonable attorney's fees and costs incurred in any such action, shall be paid to the county to be used exclusively for the full and complete restoration which existed prior to the violation of the ecosystem.
3. Notwithstanding the above provisions, no constructed wetland shall possess the rights secured by this section.

D. Definitions

“Clean Water” shall mean water that meets all local, state, and federal water quality standards, and which is of sufficient quality to protect recreation, fish consumption, and the maintenance of a healthy, well-balanced ecosystem of plants, animals and other wildlife.

“Constructed Wetland” shall mean an artificial wetland that uses natural processes involving wetland vegetation, soils, and their associated microbial assemblages to treat domestic wastewater, industrial wastewater, greywater or stormwater runoff, to improve water quality.

“Domestic Wastewater” shall mean wastewater derived principally from dwellings, business buildings, and institutions.

“Evolve” shall mean the capacity to naturally change and adopt, over time, to shift size and shape, and to perform expanded or different ecosystem functions.

“Flourish” shall mean the ability to robustly perform basic ecosystem functions.

“Greywater” shall mean domestic wastewater composed of wash water from kitchen, bathroom, and laundry sinks, tubs, and washers, but not from any sources exposed to fecal contamination, including toilets and diaper washing.

“Industrial Wastewater” shall mean the process and non-process wastewater from manufacturing, commercial, mining, and silvicultural facilities or activities, and all other wastewater not otherwise defined as domestic wastewater.

“Pollutant” or “Pollutants” shall mean any substances, contaminants, noise, or manmade or human-induced source or cause of Pollution.

“Pollute” shall mean the act of causing or contributing to Pollution.

“Pollution” shall mean the presence in the Waters of Orange County of any substances, contaminants, noise, or manmade or human-induced impairment of waters or alteration of the chemical, physical, biological, or

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radiological integrity of water in quantities above historic background levels, or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation.

“Regenerate” shall mean the ability to maintain a level of health and well-being that enables an ecosystem to respond to naturally occurring harm or damage by undergoing a process of repair and recovery over time, without human intervention.

“Rehydrate” shall mean to receive net inputs of water characteristic of the water’s hydrological cycle including the timing, quantity, and quality of clean water. Periodic drying is an essential component of the hydrologic cycle of intermittent streams and seasonal wetlands, and shall be maintained.

“Restoration” shall mean the right to be restored to the state in which an ecosystem existed prior to the damage caused by activities which violate the rights secured by this section.

“Stormwater Runoff” shall mean water generated from precipitation events that flow over land or impervious surfaces, such as paved streets, parking lots and building rooftops, and does not soak into the ground.

“Thrive” shall mean to grow and to flourish; to support self-sustaining, healthy populations of native species that are characteristic of the Waters.

“Waters” shall include, but are not be limited to, lakes, ponds, rivers, streams, springs, wetlands, impoundments, and all other waters or bodies of water, including fresh, brackish, surface or underground waters. Underground waters include, but are not limited to, all underground waters passing through pores of rock or soils or flowing through in channels, whether manmade or natural.

E. Effective Date

This amendment to the Orange County Charter shall become effective immediately upon passage and shall not require any further enabling legislation by the County.

F. Financial Analysis and Impact:

Based on information provided by the Comptroller’s Office, the cost of the proposed amendment is approximately _____ , which represents _____ .