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**To:** [Charter](#)  
**Subject:** Proposed Agenda item for 7/10 CRC meeting  
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**Attachments:** [Draft WEBOR - 6\\_18\\_2019.docx](#)  
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I would like to propose a charter amendment for the CRC to consider at the 7/10 meeting. This is the proposed charter amendment:

# **RIGHTS OF THE WEKIVA RIVER AND THE ECONLOCKHATCHEE RIVER**

## **DRAFT HOME RULE CHARTER AMENDMENT Orange County, Florida**

### **Summary:**

Shall the Home Rule Charter for Orange County, Florida, be amended to recognize the rights of the Wekiva River and the rights of the Econlockhatchee River?

### **Text of the Amendment:**

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

### **Section 704.1**

## **RIGHTS OF THE WEKIVA RIVER AND THE ECONLOCKHATCHEE RIVER**

### **Preamble**

WHEREAS, we the people of Orange County recognize that we live at a time of unprecedented species extinction, ecosystem collapse, and global warming;

WHEREAS, we recognize that environmental laws which regulate the use and exploitation of nature are incapable of protecting nature;

WHEREAS, Article II, Section 7, of the Constitution of the State of Florida, declares, "It shall be the policy of the state to conserve and protect its natural resources," and further, "Adequate provision shall be made by law for the abatement of air and water pollution;"

WHEREAS, in Orange County, and across our state, natural waterways, including the species and ecosystems which depend upon them, are increasingly at risk from pollution, global warming, algae blooms, red tide, and other threats; and

THEREFORE, we recognize that to protect nature, we must secure its highest protection through the recognition of legal rights, through the adoption of this Charter Amendment.

### **A. Rights of the Wekiva River and the Econlockhatchee River**

The Wekiva River and the Econlockhatchee River possess rights, including but not limited to, the right to naturally exist, flourish, regenerate, and evolve; the right to restoration, recovery, and preservation; the right to abundant, pure, clean, unpolluted water; the right to natural groundwater recharge and surface water recharge; the right to a healthy natural environment and natural biodiversity; the right to natural water flow; the right to carry out their natural ecosystem functions; and the right to be free of activities or practices, as well as obstructions, that interfere with or infringe upon these rights.

## **B. Rights of the People**

The people of Orange County possess the right to a healthy, flourishing Wekiva River ecosystem and Econlockhatchee River ecosystem; the right to pure, clean, unpolluted water, including the right to sustainably access, use, consume, and preserve water drawn from natural water cycles; the right to a healthy natural environment and natural biodiversity; and the right to be free of activities or practices that interfere with or infringe upon these rights.

## **C. Prohibitions**

It shall be unlawful to violate any of the provisions of this Section.

## **D. Implementation and Enforcement**

**(1) Implementation and Enforcement by Orange County.** The government of Orange County shall take all necessary actions to implement, defend, and enforce the provisions of this Section.

**(2) Enforcement by the Wekiva River and the Econlockhatchee River.** The Wekiva River and the Econlockhatchee River may enforce or defend the provisions of this Section through an action brought in the name of the river as the real party in interest. The Wekiva River and the Econlockhatchee River shall also have the right to intervene in any action concerning this Section in order to enforce or defend it.

**(3) Enforcement by Residents of Orange County.** Any resident of Orange County may enforce or defend the provisions of this Section in any appropriate court. Any resident shall also have the right to intervene in any action concerning this Section in order to enforce or defend it.

**(4) Enforcement Actions and Burden of Proof.** Where threats of violations of the rights secured in this Section are shown to exist, lack of full scientific certainty shall not be used as a reason for denying or postponing enforcement or defense of the provisions of this Section. The burden of proving the absence of a violation of rights shall lie with the proponent(s) of the activity in question, and not with the party or parties enforcing or defending the provisions of this Section.

### **(5) Penalties**

**(a) Civil Penalties:** Any business or entity formed under the laws of Florida that, through culpable negligence violates any provision of this section shall be subject to a civil penalty in an amount of \$1,000 per day of violation.

**(b) Criminal Penalties:** Any business or entity formed under the laws of Florida, or individual acting on behalf or for the benefit of such an entity, that willfully and intentionally violates any provision of this section commits a first degree misdemeanor punishable as defined in s. 775.082

**(6) Damages.** Any business or entity formed under the laws of Florida that willfully violates any provision of this Section shall be liable for any damages caused to the Wekiva River or the Econlockhatchee River as a result of the violation. Damages shall be measured by the cost of fully restoring the Wekiva River or the Econlockhatchee River to its natural state before the violation, and shall be paid to Orange County to be used exclusively for the full and complete restoration of the river affected by the violation.

**(7) Business or Government Entities.** A business or government which violates any provision of this Section shall not be deemed to possess any of the rights, privileges, powers, or protections which would interfere with the enforcement of rights secured within this Section.

**(8)** The rights of the Wekiva River and the Econlockhatchee River secured within this Section shall not be interpreted to confer liabilities, duties, obligations, or responsibilities on the Wekiva River or the Econlockhatchee River.

### **E. Definitions**

“Wekiva River,” for the purposes of this Section, shall mean the Wekiva River within Orange County, including its constituent tributaries, streams, watersheds, aquifers, springsheds, ecosystems, natural communities and the native species directly impacted by, or which directly impact, the Wekiva River within Orange County.

“Econlockhatchee River,” for the purposes of this Section, shall mean the Econlockhatchee River within Orange County, including its constituent tributaries, streams, watersheds, aquifers, springsheds, ecosystems, natural communities and the native species directly impacted by, or which directly impact, the Econlockhatchee River within Orange County.