



2024 ORANGE COUNTY CHARTER REVIEW COMMISSION (CRC)

Sustainable Growth & Charter Cleanup Committee

Revised Rural Boundary Amendment Final Report and Recommendation to the Charter Review Commission

May 1, 2024

Committee Members:

Eric R. Grimmer, Chair
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Dick Batchelor
Tom Callan
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Summary of Revised Recommendation

The Sustainable Growth & Charter Cleanup Committee recommends that the CRC place the Committee's recommended revised Rural Boundary Amendment (attached as Exhibit "A") on the 2024 General Election ballot for consideration by the voters of Orange County.

Overview of Revised Charter Amendment

The proposed revised Rural Boundary Amendment at Exhibit "A" establishes a Rural Area, which consists of unincorporated lands located outside the Urban Service Area, municipal joint planning areas, Growth Centers, Innovation Way Overlay, and Horizon West Villages on the effective date. Within the Rural Area, County comprehensive plan amendments increasing density or intensity, and ordinances removing lands from the Area, must be approved by majority-plus-one County Commission vote.

In contrast to the original Rural Boundary Amendment proposal, the revised proposed charter amendment does not preempt municipal authority to regulate land use if a municipality annexes property within the Rural Area, in contrast to provisions in the Seminole County and Alachua County Charters upon which the Committee's original proposal was based. The revised proposal maintains similarity with provisions of the Sarasota County Charter, which impose supermajority voting requirements to increase density or intensity in specified geographic areas.

In further contrast to the original Rural Boundary Amendment proposal, the revised amendment's definition of the Rural Area excludes all municipal joint planning areas, and the "Growth Centers," "Innovation Way Overlay," and "Horizon West Villages" specified

in the County's comprehensive plan. All of the areas excluded from the proposed Rural Area are depicted on a GIS exported map provided by County planning staff, attached as Exhibit "C".

Finally, the revised proposed charter amendment lowers the County Commission vote threshold from 80% (6 out of 7 Commissioners) to majority-plus-one (5 out of 7 Commissioners).

Overview of Further Committee Process

At the February 19, 2024 meeting of the 2024 Orange County Charter Review Commission ("CRC"), the Sustainable Growth & Charter Cleanup Committee presented its final report and recommendation relating to the Committee's Rural Boundary Amendment, recommending the placement of the proposed amendment on the 2024 General Election ballot. After public comment and discussion, the CRC returned the Rural Boundary topic to the Committee for further review, including review related to municipal joint planning areas, other issues related to municipalities, and consideration of an east and/or west rural boundary.

At the February 19, 2024 CRC meeting, representatives from a number of west Orange County municipalities expressed concerns that they would be negatively affected by the initially recommended version of the Rural Boundary Amendment, because portions of the proposed Rural Area encompassed lands lying within joint planning areas established in Joint Planning Agreements between the County and the municipalities. Among the concerns, some representatives noted that some of the municipalities had made water and wastewater infrastructure investments in the joint planning areas in contemplation of the areas' eventual annexation, and that their inclusion could pose concerns relating to issued bonds.

In addition, prior to the February 19, 2024 CRC meeting, County planning staff issued a memorandum to the CRC in which it suggested that certain areas of the County, although they lie within the "Rural Service Area" as defined in the Orange County comprehensive plan, may nevertheless be inappropriate to include in a charter-designated "Rural Area". These areas were the "Growth Centers", "Innovation Way Overlay", and "Horizon West Villages", each as specified in the Orange County comprehensive plan.

In light of these expressed concerns, at the Committee's March 1, 2024 meeting, the Committee spoke at length with Olan Hill, Assistant Manager, Orange County Planning Division, and Misty Mills, Senior Planner, concerning the boundaries, history, and characteristics of the County's municipal joint planning agreements/areas, Growth Centers, Innovation Way, and Horizon West. With respect to the County's municipal joint planning agreements, the Committee generally learned that within the contemplated joint planning areas, municipal annexation also contemplated municipal future land use changes consistent with a negotiated conversion table, facilitating orderly growth. As to Growth Centers, Innovation Way, and Horizon West, County staff discussed the unique urban characteristics of these areas under the County's comprehensive plan. At that

meeting, the Committee requested that General Counsel Vose review the information provided and prepare a revised draft of the Rural Boundary Amendment excluding the areas discussed from the Rural Area.

After that meeting, the Committee and the full CRC became aware of a Florida Senate floor amendment to SB 1420 (2024)¹ introduced on February 28, 2024 (the date of the bill's final passage by the Senate) which added a new Section 1 to the bill, to read as follows:

163.3167 Scope of act.—

(8)

(d) A citizen-led county charter amendment that is not required to be approved by the board of county commissioners preempting any development order, land development regulation, comprehensive plan, or voluntary annexation is prohibited unless expressly authorized in a county charter that was lawful and in effect on January 1, 2024.

As was discussed at the March 18, 2024 full CRC meeting, and later at the Committee's March 25, 2024 meeting, General Counsel Vose advised that while the wording of the provision is not the clearest, floor debate on the amendment provided an indication that the legislative intent of the amendment was to preempt certain charter amendment inquiries of the Orange County Charter Review Commission.

At its March 25, 2024 meeting, the Committee requested that General Counsel Vose attempt the preparation of another revised draft of the Rural Boundary Amendment that subjected the charter amendment to a requirement that it be approved by the Board of County Commissioners, in an attempt to draft around the restriction of SB 1420. As a result of this request, a total of two revised drafts were prepared, one excluding the municipal joint planning areas and other areas discussed with County planning staff, and a second with otherwise the same substance, but containing the following modified effective date provision:

D. Notwithstanding the last sentence of Section 702.A. of this Charter, this charter amendment is subject to the requirement that it be approved by the board of county commissioners before it shall become effective. This charter amendment shall become effective upon the date the board of county commissioners approves this charter amendment by resolution.

¹ SB 1420 was passed by the Florida House on March 6, 2024. To date the bill has not yet been presented to the Governor. There appears to be no hard deadline by which a bill must be presented to the Governor, although the general practice appears to be to present it no later than would be necessary to be consistent with its effective date. The effective date for most of SB 1420 is July 1, 2024. The Governor will have 15 days after presentation of the bill to sign it, veto it, or allow it to become law without his signature. Because SB 1420 is the Department of Commerce "train bill," containing a variety of otherwise uncontroversial but necessary statutory changes important to that department and others, the Committee proceeded under the assumption that it will become law.

Section 702 of the Charter concerns the Charter Review Commission. Note that “the last sentence of Section 702.A. of this Charter” referenced above reads “Such amendments or revisions do not require the approval of the board.” This second revised draft also included a modified ballot summary to reflect that the amendment would be “Effective upon approval of the County Commission”.

General Counsel Vose cautioned the Committee that such a provision is without evident similar precedent anywhere in the state, drafted to address a unique circumstance, and thus may pose a potential line of attack that should be considered when evaluating charter amendment options.

At its April 5, 2024 meeting, the Committee discussed the 80% County Commission vote threshold in its original Rural Boundary Amendment proposal. Generally, concerns were expressed that such a high threshold may hamper support for the proposal. As a result, the Committee requested that General Counsel Vose prepare further revised drafts of both versions of the charter amendment to substitute a “majority-plus-one” County Commission vote threshold.

At its April 24, 2024 meeting, the Committee discussed various options, including recommending that to the CRC that the CRC place the “SB 1420 workaround” version of revised Rural Boundary Amendment directly on the ballot, and recommending that the CRC that the CRC recommend to the Board of County Commissioners that the BCC place on the ballot the revised Rural Boundary Amendment without the SB 1420 workaround language.

At its April 26, 2024 meeting, the Committee further discussed potential options, and ultimately modified the revised Rural Boundary Amendment to remove all language that SB 1420 preempts the CRC (but not the BCC) from placing on the ballot. After this language was prepared, the Committee, by a 4-0 vote, recommended the placement of the revised Rural Boundary Amendment attached as Exhibit “A” on the November 2024 ballot. At the Committee’s direction, the Committee’s version of the revised Rural Boundary Amendment prior to removal of the language preempted to the CRC by SB 1420 is also attached as Exhibit “B” for historical purposes.

Exhibit “A”

Ballot Proposal: The ballot title and ballot summary for this question are as follows:

**ORANGE COUNTY CHARTER
AMENDMENT ESTABLISHING RURAL
BOUNDARY AND RURAL AREA (“AREA”)**

Establishing a Rural Area (unincorporated lands located outside the County's Urban Service Area, municipal joint planning areas, Growth Centers, Innovation Way Overlay, and Horizon West Villages on the effective date) where County comprehensive plan amendments increasing density or intensity, and ordinances removing lands from the Area, must be approved by majority-plus-one County Commission vote.

_____ Yes
_____ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Orange County Charter are amended to read as follows:

Sec. 506. – Rural Boundary and Rural Area.

A. Establishment of Rural Area and Rural Boundary. There is hereby established a Rural Area, initially consisting of all lands lying in the unincorporated County as of the effective date of this section that are located outside of the following areas as of the effective date of this section: (1) the Urban Service Area specified in the Orange County comprehensive plan; (2) municipal joint planning areas adopted by joint planning agreement or interlocal agreement; (3) Growth Centers specified in the Orange County comprehensive plan; (4) the Innovation Way Overlay specified in the Orange County comprehensive plan; and (5) the Horizon West Villages specified in the Orange County comprehensive plan. There is hereby established a Rural Boundary, consisting of the boundary lines of the Rural Area.

B. Legal Effect of Rural Area.

(1) After the effective date of this section, any ordinance amending the Orange County comprehensive plan that increases allowable density or intensity within the Rural Area or any portion thereof, may be approved only by an affirmative vote of not less than a majority plus one of the entire membership of the board.

Exhibit “B”

Ballot Proposal: The ballot title and ballot summary for this question are as follows:

**ORANGE COUNTY CHARTER
AMENDMENT ESTABLISHING RURAL
BOUNDARY AND RURAL AREA (“AREA”)**

Establishing a Rural Area (unincorporated lands located outside the County's Urban Service Area, municipal joint planning areas, Growth Centers, Innovation Way Overlay, and Horizon West Villages on the effective date) where the County’s comprehensive plan and land development regulations will exclusively govern land development and prevail over municipal ordinances, and where comprehensive plan amendments increasing density or intensity, and ordinances removing lands from the Area, must be approved by majority-plus-one County Commission vote.

_____ Yes
_____ No

Text Revisions: Upon approval of this question at referendum, the following portions of the Orange County Charter are amended to read as follows:

Sec. 506. – Rural Boundary and Rural Area.

A. Establishment of Rural Area and Rural Boundary. There is hereby established a Rural Area, initially consisting of all lands lying in the unincorporated County as of the effective date of this section that are located outside of the following areas as of the effective date of this section: (1) the Urban Service Area specified in the Orange County comprehensive plan; (2) municipal joint planning areas adopted by joint planning agreement or interlocal agreement; (3) Growth Centers specified in the Orange County comprehensive plan; (4) the Innovation Way Overlay specified in the Orange County comprehensive plan; and (5) the Horizon West Villages specified in the Orange County comprehensive plan. There is hereby established a Rural Boundary, consisting of the boundary lines of the Rural Area.

B. Legal Effect of Rural Area.

(1) After the effective date of this section, the comprehensive plan and land development regulations of Orange County shall exclusively govern the development of lands lying within the Rural Area, regardless of whether some or all of the lands lying within the Rural

Area are subsequently annexed or otherwise added into a municipality.

(2) After the effective date of this section, any ordinance amending the Orange County comprehensive plan that increases allowable density or intensity within the Rural Area or any portion thereof, may be approved only by an affirmative vote of not less than a majority plus one of the entire membership of the board.

(3) After the effective date of this section, the board of county commissioners may remove lands from the Rural Area only by ordinance approved by an affirmative vote of not less than a majority plus one of the entire membership of the board.

C. The board of county commissioners may enact ordinances to implement this section. This section and any implementing county ordinances shall prevail over conflicting municipal ordinances.

D. This charter amendment shall become effective upon the date of canvassing board certification of approval by a vote of the electors of Orange County.

...

Sec. 704. Conflict of county ordinances with municipal ordinances; preemption.

A. Except as provided in this section, no county ordinance shall be effective within a municipality if the municipality maintains an ordinance covering the same subject matter, activity or conduct as the county ordinance.

B. County ordinances shall be effective within municipalities and shall prevail over municipal ordinances when:

...

3. Section 506 of this Charter so provides.

C. The intent of this section is that no person within a municipality shall be governed simultaneously by two sets of ordinances covering the same subject matter, activity or conduct, except in matters of minimum adult-entertainment standards, or pollution regulatory standards, or simulated gambling or gambling prohibitions or standards, or rezoning or comprehensive-plan amendments that affect public schools with attendance zones that straddle any municipal boundary, or as provided in Section 506 of this Charter. In absence of an ordinance within a municipality on a subject, the county ordinance on that subject shall govern.

General Depiction of Areas Excluded from Rural Area

This GIS exported map was provided by County planning staff on April 30, 2024, depicting the areas excluded from the Committee-proposed Rural Area.

- Blue lines depict the Urban Service Area boundary
- Greyed areas depict municipalities
- Interior black lines depict municipal joint planning area (JPA) boundaries
- Black-and-white dashed lines depict Growth Center boundaries
- Black-and-color dashed lines depict Horizon West Villages boundaries
- Red dashed lines depict Innovation Way Overlay boundaries

