AGENDA

I. Call to Order

II. Approval of January 11, 2018 Meeting Minutes

III. Remarks of Interested Citizens

IV. Proposed Charter Amendments for Committee Consideration
   a. Protections for Water Resources (Vincent S. Long)
   b. Charter Provision Related to Constitutional Officers (Vincent S. Long)

V. Adjournment

The next meeting of the Citizen Charter Review Committee will take place on Thursday, January 25, 2018 at 11:30 A.M.
I.

CALL TO ORDER
II.

APPROVAL OF JANUARY 11, 2018 MEETING MINUTES
CHARTER REVIEW COMMITTEE  
January 11, 2018

ATTENDING: The Leon County 2017-2018 Citizens Charter Review Committee (CRC) met on January 11, 2018 at 11:30 a.m. in the Commission Chambers with Committee members Ted Thomas, Catherine Jones, Neil Fleckenstein, Reginald Ellis, Michael Eurich, Anice Prosser, Casey Perkins, Lee Hinkle, Shane Hopkins, William Graham, and Jay Revell in attendance. Committee member Ken Hart was absent. Also present were County Administrator Vince Long, County Attorney Herb Thiele, Deputy County Administrator Alan Rosenzweig, Deputy County Attorney LaShawn Riggans, Special Projects Coordinator Heather Peeples, and Deputy Clerk Rebecca Vause. Committee Members Kim Williams arrived at 11:30 and Gordon Thames arrived at 11:43.

I. Call to Order: Chair Hinkle called the meeting to order at 11:30 a.m. She advised that Committee member Ken Hart would not be in attendance and that a serious health issue most likely would prevent him from participating further on the Committee.

II. Approval of December 7, 2017 Meeting Minutes:  
A motion to approve the December 7, 2017 minutes was offered by Michael Eurich and seconded by Reginald Ellis. The motion carried 11-0 (Kim Williams, Gordon Thames and Ken Hart absent).

III. Remarks of Interested Citizens:

- Marilyn Wills, spoke on the value of nonpartisan elections for Constitutional Offices and the Supervisor of Elections. She commented that there were over 35,000 voters in Leon County registered as no party affiliation and provided some advantages of nonpartisan elections.
- Robert Travis, Tallahassee NAACP, referenced the Consent Decree that was entered into between the County and the NAACP in the 1990’s, which stipulated that the County would notify the NAACP of any proposed changes to establish partisan/nonpartisan single member districts. He advised that the NAACP opposed any changes that would be in violation of the Consent Decree.
- Commissioner Bill Proctor expressed support for the comments expressed by Mr. Travis. He asked that the CRC not make any changes to current County Commission districts. He also requested that partisan elections remain for Constitutional Officers as party affiliation represents ideals and policies of a candidate.
- Angela Hardiman appeared to speak strongly in favor of nonpartisan races for Constitutional Offices. She asserted that politics has no place in determining how well a job can be performed.
- Wilson Barnes stated that independent voters made the choice to be independent and he did not want to lose the opportunity to exercise his vote. He requested the Committee maintain partisan elections.

IV. Proposed Charter Amendments for Committee Consideration:

Chairman Hinkle reminded the Committee that a majority vote of the Committee was needed to move the proposed amendments to the next phase.
a. Standards for CRA Expenditures

County Administrator Long recalled that the CRC had been provided at its last meeting an agenda item including a legal analysis of the proposed Charter amendment. He noted that the analysis concluded that imposing additional standards pertaining to CRA expenditures cannot be effectuated by a Charter amendment, but could through an amendment to the existing Interlocal Agreements. County Administrator Long recalled that the Committee had also requested a presentation from the CRA. He then introduced Wayne Tedder, Assistant City Manager of Development Services and Economic Vitality, to make the presentation to the Committee. County Administrator Long also recognized the presence of Interim City Manager Reese Goad.

Mr. Thames questioned the analysis and submitted that a Charter amendment is at a different level from an interlocal agreement. He opined that the voters of Leon County should have the authority, via Charter amendment, to stipulate that going forward, anything purchased from CRA funds would be owned by taxpayers.

County Attorney Thiele reaffirmed that because the CRA is a separate legal entity, a change to their processes and budget by Charter amendment could not be realized.

Mr. Tedder provided a thorough presentation to the Committee including, but not limited to: the makeup and processes of the CRA; criteria to establish a CRA; information on the two Tallahassee CRA Districts; CRA funding, and an overview of CRA projects (past, current and pending).

Dialogue between Mr. Thames and Mr. Tedder ensued upon the conclusion of the presentation.

Mr. Graham acknowledged the opinion of staff regarding the authority of the CRC on this issue. He mentioned that there were currently two bills pending in the legislature that address many of the concerns expressed by Mr. Thames and suggested that would be a more appropriate venue to bring these issues forward.

Ted Thomas moved, seconded by William Graham, approval of Option 3: Take no further action at this time. The motion carried 11-2 (Gordon Thames and Catherine Jones in opposition and Ken Hart absent).

b. Non Partisan Constitutional Officers

County Administrator Long introduced the item. He mentioned that the Florida Constitutional Revision Committee is considering an amendment to the Constitution that would prohibit charter counties from modifying the powers, duties and elected status of Constitutional Officers. He announced that Chris Moore, Deputy Supervisor of Elections, was in attendance to answer any questions the Committee may have.

County Attorney Thiele provided a brief update on the Fifth District Court of Appeal opinion in Orange County Florida v. Singh, et al., in which Orange County appealed a final judgment striking a portion of a county charter amendment that provided for the nonpartisan election of certain county constitutional officers. County Attorney Thiele offered that, while Leon County is not in the Fifth District, and it is unknown whether Orange County will appeal the decision, it could provide potential limitation on Leon County's ability to change the Constitutional Offices to nonpartisan status.
Mr. Thomas offered that a precedent has been set in this district (Wakulla County) and opined that the Committee should move forward with an amendment that there be nonpartisan elections for Constitutional Officers.

Ms. Jones mentioned that while the CRC should not made decisions based on what the Constitutional Revision Committee might do, believed that consideration should be given to the ruling in the Fifth District Court. She stated that she was opposed to making Constitutional Offices nonpartisan; however, recognized the “no party affiliation” individuals have a right to vote.

Mr. Ellis opined that the CRC should not take action on this as there are too many unknowns at this time.

_Reginald Ellis moved, seconded by Catherine Jones, approval of Option 3: Take no further action at this time._

Mr. Fleckenstein asked Mr. Moore to address what impact could be realized by the change. Mr. Moore responded that it would simplify the election process; however, mentioned that the County has both nonpartisan and partisan elections and both appear to work.

Mr. Thomas conveyed that when he spoke in support of nonpartisan elections, he intended that to be a motion.

Mr. Revell stated that he was a fan of nonpartisan elections and supports any option which expands the electorate to allow more voters to have a say.

_The motion carried 9-4 (Anice Prosser, Jay Revell, Ted Thomas and Kim Williams in opposition and Ken Hart absent)._  

**V. Draft Charter Amendment Language:**

a. Increasing Campaign Contribution Limits for Local Elections

County Administrator Long introduced the item and noted that proposed charter amendment language is provided for the CRC’s consideration.

_Kim Williams moved, seconded by Ted Thomas, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing._

Mr. Fleckenstein pointed out that 66.5% of the electorate approved of the amendment in the 2010 General Election and based on data from the Supervisor of Elections website 165 of 166 precincts supported the amendment. He submitted that based on the success of the amendment in 2010 citizens supported a decrease in campaign contribution and he saw no reason to go in the opposite direction.

Mr. Eurich commented that when the $250 campaign contribution limit is compared to the state’s limit of $1,000, there is no substantive change in the percentage of candidates with a surplus at the end of the campaign cycle; thus he did not see where an increase was needed.

_The motion carried 9-4 (Michael Eurich, Neil Fleckenstein, Anice Prosser and Gordon Thames in opposition and Ken Hart absent)._
b. Code of Ethics

County Administrator Long introduced the item. He advised that the County currently has an ethics policy that closely follows state law; however, acknowledged that a Charter amendment requiring the County to adopt an ordinance would further elevate the importance and visibility of the County’s ethics rules. He mentioned that a recently developed Ethics “Field Manual” for employees was included in the Committee’s packet. County Administrator Long also advised that unless the Sheriff, Property Appraiser, Tax Collector, Clerk of Court and Comptroller and Supervisor of Elections become Charter Officers, which they presently are not, it is the County Attorney’s opinion that the County cannot impose a “Code of Ethics” on Constitutional Officers.

Neil Fleckenstein moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule a public hearing for the proposed charter amendment language providing for a “Code of Ethics’ not applicable to Constitutional Officers.

Ms. Jones opined that there was not a Constitutional Officer who would not support, appreciate and want the public to know that they also uphold to a code of ethics.

The motion carried 13-0 (Ken Hart absent)

c. Hiring/Firing County Attorney

County Attorney Thiele introduced the item. He referenced the proposed language and stated that it is was taken verbatim from the Charter applicable for the County Administrator.

Jay Revell moved, seconded by William Graham, approval of Option 1: Proceed to the next step in the proposed charter amendment process by requesting that staff schedule the proposed charter amendment language for public hearing. The motion carried 13-0 (Ken Hart absent).

d. Modifying the District Composition of the Leon County Board of County Commissioners

County Attorney Thiele introduced the item. He stated that he had deemed it premature to contact the NAACP on the proposed change; however, as the amendment moves through the process, and when appropriate, dialogue would be initiated. He then reviewed the legal process that would be required to implement the amendment and advised that legal matters may not be resolved prior to the November election which could prevent the amendment from being placed on the 2018 ballot.

Mr. Williams confirmed with County Attorney Thiele that the change had to be done by Charter amendment. Mr. Williams, on behalf of Mr. Hart (who initiated the amendment) conveyed that the intent was to allow all the electorate to vote for four of the seven County Commissioners. He asserted that he could not support the proposed amendment until the legal issues had been addressed.

Chairman Hinkle agreed that a court decision could not be rendered by 2018 and that it would be 2020 (or after) before the amendment could be placed on the ballot. She recommended that the CRC suggest to the County Commission that they revisit
the Federal Courts decision, as it was rendered in 1985 and much progress has been made since that time.

Mr. Revell affirmed with County Attorney Thiele that the requirements from the Federal Court order were not included in the Charter and he did recommend that they be added.

Ms. Jones recommended that the Committee not move forward with the amendment in light of the time that would be required to address the legal challenges and that the NAACP was not supportive of the change.

_Catherine Jones moved, seconded by Reginald Ellis, approval of Option 3: Take no further action at this time._

Mr. Williams asked if the maker of the motion would consider adding Chairman Hinkle’s recommendation to bring the matter to the Board for consideration. **Ms. Jones did not accept the friendly amendment.**

_The motion carried 8-5 (Lee Hinkle, Casey Perkins, Anice Prosser, Jay Revell, and Ted Thomas opposed and Ken Hart absent)._ 

**VI. Committee Idea Deliberation**

Chairman Hinkle stated that this was the last opportunity to take up any new ideas for consideration. She asked if there were any new ideas to be brought forward.

- Ms. Jones advocated for the Constitutional Offices of Supervisor of Elections, Clerk of Circuit Court and Comptroller, Property Appraiser and Tax Collector to be appointed positions. She shared that the Constitutional Offices were established by the Florida Constitution in 1885 and opined it was time to offer the citizens an opportunity to have an opinion on this issue.
  - _Catherine Jones moved, seconded by Gordon Thames, to request staff bring back an analysis on how an appointed structure would look like for the Supervisor of Elections, Clerk of Court and Comptroller, Property Appraiser and Tax Collector._
    _The motion carried 8-5 (Reginald Ellis, Lee Hinkle, Shane Hopkins, Ted Thomas and Kim Williams in opposition and Ken Hart absent)._

At the request of Chairman Hinkle, County Administrator Long provided an overview of the actions taken by the Committee. He informed the CRC that information on the last motion would be provided at the next meeting and the three items approved for amendment language will move to the public hearing phase. He reminded the Committee that the proposed amendments would require 10 votes to move to the Board for consideration. The three items moving forward to public hearing are:

- Increase Campaign Contribution Limits for Local Elections
- Provide a Code of Ethics Requirement in the Leon County Charter
- Modify the Hiring/Firing Process for the County Attorney

Chairman Hinkle shared that Commissioner Bill Proctor has requested an opportunity to address the Committee.

- Commissioner Proctor expressed his concerns regarding the potential relocation of the Capital from Tallahassee. He spoke of the devastating effect this would have on North Florida and the loss of 40% of jobs in Tallahassee.
Commissioner Proctor also asked the Committee to consider the establishment of a Leon County Water Commission whose purpose would be to oversee and protect the area’s water resources.

Ms. Jones was unclear how the Committee could address the relocation of the capital; however, suggested this was an issue to be addressed by the County Commission. She noted that Board Chairman Nick Maddox also chaired the Leon County Legislative Dialogue meetings and suggested that the delegation lobby to maintain the capital in Tallahassee.

Chairman Maddox expressed his appreciation to the CRC for its work. He indicated that the issue of relocation is huge and would drastically change the character of the committee and create blight in the region. He suggested that the Committee direct Chairman Hinkle to send a letter to the County Commission expressing concerns over the possibility of relocation. He also suggested that a similar letter be sent to the legislative delegation expressing the Committee’s concerns.

Gordon Thames moved, seconded by Kim Williams, to authorize Chairman Hinkle to send a letter on behalf of the Committee to the Board of County Commissioners and the Legislative Delegation opposing efforts to move the state capital out of Leon County. The motion carried 13-0 (Ken Hart absent).

Ms. Jones stated that while she too was concerned about water issues she was unsure what authority the Committee has in creating a citizen advisory group.

Mr. Fleckenstein stated that Tall Timbers considers water resource protection as one of its most important functions. He spoke of the quality and quantity of water in our area and on the importance of protecting our water resource from being directed elsewhere. He stated that he would be interested in a staff analysis of how other charter counties have addressed water resource protection.

Neil Fleckenstein moved, seconded by William Graham, to direct staff to bring back additional information and analysis regarding how other county charters have addressed protecting water resources. The motion carried 13-0 (Ken Hart absent).

Chairman Hinkle advised that the requested information on the appointment of Constitutional Officers and the water resources issue would be on the Committee’s January 18 agenda.

VII. Adjourn

The Committee adjourned at 1:44 p.m.

_______________________________________
Lee Hinkle, Chair
Leon County Charter Review Committee

________________________________
Rebecca Vause, Deputy Clerk
III.

REMARKS OF INTERESTED CITIZENS
IV.

PROPOSED CHARTER AMENDMENTS FOR COMMITTEE CONSIDERATION
LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM A
Citizen Charter Review Committee

Agenda Item A
January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
       Herb W.A. Thiele, County Attorney

Title: Protections for Water Resources

| Review and Approval: | Vincent S. Long, County Administrator |
|                     | Herb W.A. Thiele, County Attorney     |
| Department/Division Review: | Alan Rosenzweig, Deputy County Administrator |
|                          | LaShawn Riggans, Deputy County Attorney |
| Lead Staff/Project Team: | Heather Peeples, Special Projects Coordinator |

Summary:
This item provides the Committee with additional information and analysis regarding how other Florida county charters have addressed protecting water resources.

Staff Recommendation:
Option #4: Committee direction
Report and Discussion

Background:
At the Leon County Charter Review Committee meeting of January 11, 2018, the Committee voted 13-0 to request additional information and analysis regarding how other county charters have addressed protecting water resources.

As reflected in the attached memo from the County Attorney (Attachment #1), waters in the state are considered a public resource to be managed on a state and regional basis. Consequently, the State maintains exclusive authority for requiring water use permits for the consumptive use of water, such as the construction of water wells. However, as noted in the analysis, counties can establish environmental standards related to water quality protection.

Analysis:
Explained in greater detail below, Leon County’s Charter is consistent with other Florida Charter County’s that have environmental and water protection provisions. Leon County’s Charter currently contains a countywide “Minimum Environmental Regulations” provision in Section 1.6.(2) which was an amendment recommended by the 2009/2010 Citizen Charter Review Committee and approved by 61% of the electorate (Attachment #2).

Section 1.6.(2) of the Charter requires the County to adopt minimum standards, procedures, requirements and regulations for the protection of the environment to include, but are not limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and other environmental standards the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. The amendment does not prohibit the City from adopting more stringent environmental regulations.

In March 2011, the Board of County Commissioners adopted a minimum Countywide Environmental Standard Ordinance to provide consistency, reliability and uniformity of standards countywide, recognizing that environmental conditions are not confined by jurisdictional boundaries. For instance, to address aquifer protection, the ordinance increased the stormwater treatment standards countywide. The base minimum stormwater treatment standard for the entire County was increased to more than twice the State minimum standard (1-1/8-inches versus 1/2 inch). Stormwater is the flow of water resulting from a rainfall event, which is treated through containment in stormwater ponds. Treatment standards for stormwater specify the quantities of stormwater contained and treated in these ponds.

The Ordinance also included countywide stormwater treatment and protection standards in drainage basins and study areas that crossed both the incorporated and unincorporated areas. These areas include the Bradfordville Study Area and Lake Jackson Basin and, as a result of the Ordinance, the Bradfordville and Lake Jackson stormwater standards became applicable within the City’s limits. In addition, on July 7, 2015, the Board adopted a new stormwater standard for the Lake Jackson Basin. The new standard provided improved treatment for new residential type developments. This standard ensures that the water quality of Lake Jackson will not be adversely affected by new development.
As a charter county, Leon County also has the power to enact ordinances regulating water so long as they are consistent with state laws. For instance, Leon County Code of Laws provides for a countywide Aquifer/Wellhead Protection Program to “protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.” The ordinance provides criteria for regulating the use, handling, production, storage, and disposal of regulated substances such as petroleum products, solvents, etc. The County contracts with the City of Tallahassee Water Quality Division to enforce the ordinance on a countywide basis (Attachments #3 and #4). The City enforces the County’s Ordinance governing the protection of the Floridan aquifer by inspecting facilities to prevent the introduction of these substances into the groundwater in the County. The County’s Ordinance includes regulations such as a prohibition of installing new water wells within 400 feet of an available water system, as well as regulations regarding maintenance and abandonment.

Regarding other Florida Charter Counties, six contain similar provisions as the Leon County Charter:

- Alachua County – Municipal ordinances regarding environmental standards prevail, unless the County’s standards are more stringent.
- Broward County – The County is required to set minimum standards protecting the environment through the prohibition or regulation of air or water pollution, or the destruction of resources in the County belonging to the general public.
- Columbia County – The County is permitted to adopt minimum countywide standards for protecting the environment by regulating air or water pollution.
- Orange County – The County is permitted to adopt minimum countywide standards for protecting the environment by prohibiting or regulating air or water pollution.
- Palm Beach County – The County is permitted to adopt a countywide ordinance relating to the protection of wells and well fields, by providing criteria for regulating and prohibiting the use, handling, production and storage of certain deleterious substances which may impair present and future public potable water supply wells and well fields.
- Volusia – The County is required to set minimum standards, procedures, requirements and regulations for the protection of the environment.

Where not pre-empted by the State, the Leon County Charter provides for the adoption of countywide water protection ordinances or regulations. While more specific provisions could be adopted as Charter amendments, the current approach of adopting local ordinances and regulations provides flexibility to address changing local conditions. Leon County continues to explore and evaluate opportunities to improve water quality protection; however, there are no specific additional regulations recommended at this time.
Options:
1. Proceed to the next step in the proposed charter amendment process by requesting that staff prepare proposed charter amendment language.
   Voting Threshold: Simple Majority Vote

2. Request additional information and analysis.
   Voting Threshold: Four (4) Votes

3. Take no further action at this time.
   Voting Threshold: Simple Majority Vote

4. Committee direction.

Recommendation:
Option #4: Committee direction.

Attachment:
1. Memo from the County Attorney’s Office
2. 2010 Charter Amendment, “Minimum Environmental Regulations”
3. Aquifer/Wellhead Ordinance
4. Aquifer/Wellhead Protection Program Interlocal Agreement
BOARD OF COUNTY COMMISSIONERS
INTER-OFFICE MEMORANDUM

To: Alan Rosenzweig, Deputy County Administrator

From: LaShawn D. Riggans, Esq.
Deputy County Attorney

Date: January 12, 2018

Subject: Regulation of Water Wells in Florida

As requested, the purpose of this memorandum is to provide a general review and analysis of various laws and cases pertaining to water resources in the state, and most particularly the regulation of water wells. By way of background, there have been queries concerning local regulation of pumping, deep well injections, and the depth of wellheads.

Chapter 373, Florida Statutes is known as the “Florida Water Resources Act of 1972,” and is divided into seven parts. The pertinent parts herein are: (a) Part I, the state water resource plan; (b) Part II, permitting of consumptive uses of water; and (c) Part III, the regulation of wells.

In Part I of Chapter 373, the Legislature declares that “[b]ecause water constitutes a public resource benefiting the entire state, it is the policy of the Legislature that the waters in the state be managed on a state and regional basis.” § 373.016(4)(a), Fla. Stat. (2017). Further, pursuant to Section 373.023(2), Florida Statutes, “[n]o state or local government agency may enforce, except with respect to water quality, any special act, rule, regulation, or order affecting the waters in the state controlled under the provisions of this act... until such special act, rule, regulation, or order has been filed with the department [of environmental protection].”

With regard to Part II of Chapter 373, Section 373.217(2) states that it is the intent of the Legislature for Part II to “provide the exclusive authority for requiring permits for the consumptive use of water.” Section 373.217(3) states that if any ordinance, rule or regulation of any political subdivision or municipality is in conflict with Part II, then Part II “shall govern and control, and such other law or ordinance or rule or regulation... shall be deemed superseded for the purpose of regulating the consumptive use of water.” Section 373.217(4) then sets forth that Part II “preempts the regulation of the consumptive use of water.”

Pursuant to Section 373.216, Florida Statutes, each water management district, including the Northwest Florida Water Management District (“NWFWMMD”), has implemented a program for the issuance of permits authorizing the consumptive use of particular quantities of water. The conditions for obtaining a permit for a consumptive use of water are set forth in Section 373.223, Florida Statutes, and the rules for the regulation and permitting of consumptive uses of water by
the respective water management districts are set forth at Chapter 40A-2, Florida Administrative Code ("F.A.C.").

Under Part III of Chapter 373, concerning the regulation of wells, the Legislature found that, in order to protect the health of the public and the environment, it was "necessary to regulate the construction, repair, and abandonment of wells, and the persons and businesses responsible therefor." § 373.302, Florida Statutes (2017). Accordingly, Section 373.306 provides that "[n]o person shall construct, repair, abandon, or cause to be constructed, repaired, or abandoned, any water well contrary to the provisions of this part and applicable rules and regulations."

Section 373.309(1) provides that the Department of Environmental Protection ("DEP") shall adopt rules governing the location, construction, repair, and abandonment of water wells and shall be responsible for the administration of Part III. Pursuant to Section 373.309(1)(b), DEP may delegate, via interagency agreement to the water management districts, the Department of Health, or any other political subdivision, any of DEP's authority under Part III to administer the rules governing the location, construction, repair, and abandonment of water wells. Section 373.308(1) provides that the DEP shall authorize the water management districts to implement a program for the issuance of permits for the location, construction, repair, and abandonment of water wells, and that upon such authorization, "issuance of well permits will be the sole responsibility of the water management district, delegated local government, or local county health department."

The purpose of Chapter 40A-3, F.A.C., is to implement the duties and responsibilities of the water management districts under Part III, Chapter 373, Florida Statutes, as well as to set forth the duties and responsibilities delegated by DEP to the water management districts, relative to regulating the location, construction, repair, or abandonment of wells, and the licensing of water well contractors. Rule 40A-3.011(1), F.A.C. Pursuant to Rule 40A-3.041(1), "[u]nless expressly exempted by Statute or District rule, a permit must be obtained from the District prior to construction, repair, or abandonment of a well and the well must be constructed, repaired, or abandoned by a licensed water well contractor." Notably, Rule 40A-3.041(14), F.A.C., does makes allowance for local rules and standards, as follows:

Receipt of a permit from the District does not alleviate the responsibility of the applicant to obtain other permits that may be necessary from local, state, or federal agencies. If more stringent rules concerning construction standards for water wells are promulgated by local permitting authorities, those standards shall apply.

As a charter county, Leon County has all powers of local self-government not inconsistent with general or special law and may enact county ordinances not inconsistent with general law. Art. VIII, s. 1(g), Fla. Const.; § 125.01(1), Fla. Stat. (2017). This power includes the power to provide and regulate water and alternative water supplies, including, but not limited
to, reclaimed water and water from aquifer storage and recovery, and conservation programs. § 125.01(1)(k)1., Fla. Stat. (2017).

Section 10-10.305 of the Leon County Code of Laws provides a general prohibition against installing new water wells within 400 feet of an available community water system. In addition, Section 10-10.306 of the Code contains certain regulations concerning injection wells, heat exchange wells and drainage wells, and Section 10-10.307 contains certain regulations concerning well maintenance, well abandonment and geotechnical borings. These provisions were adopted on November 8, 2005, via Leon County Ordinance No. 05-30.

It is clear that water management districts have the exclusive authority to permit consumptive uses of water. As stated by the Fifth District Court of Appeal, “Section 373.217 of the Florida Statutes... sets forth the supremacy and exclusivity of [the water management district’s] permitting authority.” Thomas v. Southwest Florida Water Management District, 864 So. 2d 455, 456 (Fla. 5th DCA 2003). Moreover, the Fifth DCA found that Section 373.217 even “expressly preempts other statutes, including Part I of Chapter 373, that attempt to limit or qualify” the permitting authority of a water management district. Id.

In a local case, the First District Court of Appeal held that the Department of Community Affairs had exceeded its authority when it attempted to require property owners on St. George Island to obtain well drilling permits from the Department. Northwest Florida Water Management District v. Department of Community Affairs, 7 So. 3d 1129 (Fla. 1st DCA 2009). The issue in this case was a 1977 development order issued by the Department of Community Affairs. Some thirty years later, certain property owners on St. George Island submitted applications to the NFWMD for permits to drill wells on their property, and the NFWMD announced its intention to issue the permits. However, the Department issued notices of violation to the property owners, asserting that the proposed wells were in violation of the development order and that the Department’s approval of the wells had not been obtained. However, the NFWMD took the matter to court, and the First District Court of Appeal agreed with the position of the NFWMD, as follows:

We agree with petitioner that [the] expressed intention of the Florida Legislature to provide the “exclusive authority” to the water management districts of this state for permitting the consumptive use of water is clear and requires this Court to grant the petition and exclude the Department [of Community Affairs] from the process of approving the wells in question.

Id. at 1131. Furthermore, the Court stated that the “preemption language of section 373.217 does in fact mean what it says and permitting by the water management district is all that is required to obtain approval for consumptive use of water in this state.” Id.

In Marion County v. Greene, 5 So. 3d 775, 777 (Fla. 5th DCA 2009), Marion County objected to the issuance of a consumptive use permit (“CUP”) to withdraw groundwater for
bottling and distribution as drinking water through an existing well, contending that the proposed use was not in the public interest and was "inconsistent with Marion County's interests, plans, and regulations." On appeal, the Fifth DCA found that Chapter 373 grants water management districts the "exclusive authority" to approve consumptive use permit applications, and that "when a county ordinance is in conflict with the water management district's exclusive authority, the ordinance is deemed superseded for purposes of regulating the consumptive use of water." Id. at 778-79. Further, "[n]either the statutes nor the rules regarding CUPs impose any requirements on the District related to compliance with a local government's comprehensive plan or land development regulations." Id. at 779.

Also, although Section 125.01(1)(k)1., Florida Statutes does provide counties with the power to provide and regulate water and alternative water supplies, the Second District Court of Appeal has found that Section 373.223, Florida Statutes, which sets the conditions for obtaining a water use permit, controls over Section 125.01(1)(k)1., Florida Statutes. See Southwest Florida Water Management District v. Charlotte County, 774 So. 2d 903, 918 (Fla. 2d DCA 2001), rev. den., 800 So. 2d 615 (Fla. 2001).

In the case of South Florida Water Management District v. City of St. Cloud, 550 So. 2d 551 (Fla. 5th DCA 1989), the City of St. Cloud challenged the issuance of well construction permits by the South Florida Water Management District ("SFWMD"), citing that the construction of the wells would have an effect of impairing, polluting, and otherwise adversely affecting the quality and availability of water to the City. Upon appeal, the Second DCA found that the City did have standing to intervene in the matter and was entitled to a formal administrative hearing. Also, the City was also entitled to a temporary injunction to prevent the construction of the wells pending the outcome of the formal administrative hearing, as the City had presented sufficient evidence to establish irreparable injury.

In conclusion, it is clear that in this county the NWFWMD has the supreme and exclusive statutory authority to issue water use permits. However, as indicated in Rule 40A-3.041(14), F.A.C., more stringent rules concerning construction standards for water wells can be promulgated by local permitting authorities. Please advise if you need additional information or research concerning this matter.
ORDINANCE NO. 2010-_______

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA; AMENDING ARTICLE I, CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT; AMENDING SECTION 1.6, RELATION TO MUNICIPAL ORDINANCES, BY ADDING A NEW SUBSECTION (2) TO PROVIDE FOR MINIMUM ENVIRONMENTAL REGULATIONS; PROVIDING FOR A BALLOT QUESTION TO BE POSED TO THE LEON COUNTY ELECTORATE AT THE SPECIAL ELECTION ON NOVEMBER 2, 2010; PROVIDING FOR THE BALLOT QUESTION FORM; PROVIDING FOR FURTHER AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED by the Board of County Commissioners of Leon County, Florida, that:

Section 1. Article I, Section 1.6 of the Home Rule Charter of Leon County, Florida, is hereby amended to read as follows:

Sec. 1.6. Relation to Municipal Ordinances.

(1) Except as otherwise provided by law or this Charter, municipal ordinances shall prevail over County ordinances to the extent of any conflict within the boundaries of the municipality. To the extent that a county ordinance and a municipal ordinance shall cover the same subject without conflict, then both the municipal ordinance and the county ordinance shall be effective, each being deemed supplemental to the other.

(2) Minimum Environmental Regulations. County ordinances shall establish minimum standards, procedures, requirements and regulations for the protection of the environment and shall be effective within the unincorporated and incorporated areas of the County. Such standards, procedures, requirements and regulations shall include, but shall not be
limited to, tree protection, landscaping, aquifer protection, stormwater, protection of conservation and preservation features, and such other environmental standards as the Board of County Commissioners determines to be necessary for the protection of the public health, safety, and welfare of the citizens throughout Leon County. Standards shall be designed to place emphasis on supporting healthy natural systems occurring in the environment. However, nothing contained herein shall prohibit a municipality from adopting ordinances, standards, procedures, requirements or regulations establishing a more stringent level of environmental protection within the incorporated area of the County.

Section 2. Ballot Question To Be Presented To Electorate.

The proposed amendments to the Home Rule Charter of Leon County, Florida, shall be presented to the qualified Leon County electorate by placing the question of whether to adopt same on the ballot at the special election to be held on November 2, 2010.

Section 3. Ballot Question Form.

The question on the ballot shall be substantially in the following form:

MINIMUM COUNTYWIDE ENVIRONMENTAL REGULATIONS AS PROPOSED BY THE CITIZEN CHARTER REVIEW COMMITTEE

Question

Shall the Home Rule Charter for Leon County, Florida be amended to provide that County ordinances shall establish minimum regulatory standards for the protection of the environment countywide, with an emphasis on supporting healthy natural systems in the environment; effective April 1, 2011?

Yes for Approval _______

No for Rejection _______

Section 4. Further Authorization.
The Board of County Commissioners of Leon County, Florida, is authorized to adopt all resolutions and take all actions necessary in order for this Charter amendment referendum to be properly placed on the ballot for the special election of November 2, 2010. Said referendum shall be conducted according to the requirements of law governing referendum elections in the State of Florida.

Section 5. Severability.

If any word, phrase, clause, section or portion of this ordinance shall be held invalid or unconstitutional by a court of competent jurisdiction, such portion or words shall be deemed a separate and independent provision and such holding shall not affect the validity of the remaining portions thereof.

Section 6. Effective Date.

This ordinance shall have effect upon becoming law, but shall be of no further force or effect if the proposed Charter amendments are not duly approved at the November 2, 2010, special election. The amendments to the Home Rule Charter of Leon County, Florida, as proposed by this Ordinance, shall become effective April 1, 2011, if the Charter amendment is approved by a “yes” vote by a majority of those duly qualified electors voting on the question posed at the November 2, 2010, referendum.

DULY PASSED AND ADOPTED BY the Board of County Commissioners of Leon County, Florida, this 17th day of August, 2010.

LEON COUNTY, FLORIDA

By: ________________________________

Bob Rackleff, Chairman
Board of County Commissioners
ATTESTED BY:
BOB INZER, CLERK OF THE COURT
LEON COUNTY, FLORIDA

By:_______________________________
    Clerk

APPROVED AS TO FORM:
COUNTY ATTORNEY’S OFFICE
LEON COUNTY, FLORIDA

By:_______________________________
    Herbert W. A. Thiele, Esq.
    County Attorney
ARTICLE X. - AQUIFER/WELLHEAD PROTECTION

DIVISION 1. - GENERALLY

Sec. 10-10.101. - Definitions.

As stated in section 10-1.101, the definitions in section 10-1.101 apply to this article. The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Aquifer protection coordinator shall mean a City of Tallahassee employee with co-delegated authority to enforce this article.

Discharge shall mean a nonpermitted discharge as defined by F.S. § 376.301(12), and includes but is not limited to, the spilling, leaking, seeping, pouring, misapplying, emitting, emptying, or dumping of any regulated substances which may affect the groundwater.

Drainage well shall mean any well installed for the purpose of draining water from above the earth’s surface to subsurface layers.

Dry well shall mean a well lined or filled with gravel or sand that holds water until percolation into the ground.

Contaminated groundwater shall mean groundwater that does not meet the standards defined in Chapter 62-520, F.A.C.

Injection well shall mean a well into which fluids that are being or will be injected by gravity flow or under pressure, by gravity flow or under pressure.

Regulated entity shall mean any business, facility, activity, agency, or farming operation-site expanding more than three acres, that, at any time, manufactures, stores, or uses regulated substances listed in section 10-10.106, or any property that undergoes new construction, demolition, additions, alterations or repairs that requires a City of Tallahassee or Leon County building or environmental permit.

Well shall mean any excavation which has a depth greater than the diameter of the largest surface dimension that is drilled, cored, bored, washed, driven, dug, jetted, or otherwise constructed for conveying groundwater to the surface, monitoring the groundwater level or quality, providing cathodic protection, or providing a method of injecting conveying water from above the earth’s surface to subsurface layers.

Violator shall mean any person, firm, corporation, business entity, facility or organization owning, possessing, leasing, renting or having control of the subject property where prohibited activities occur and contribute to groundwater contamination.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.102. - Intent and purpose.

(a) The intent and purpose of this article is to protect and maintain the quality and quantity of groundwater in the county by providing criteria for regulating the use, handling, production, storage, and disposal of regulated substances.

(b) This article shall establish performance standards for the use, handling, production, storage, or disposal of regulated substances that are applicable to facilities so as to preclude the introduction of these substances into groundwater.

(c) This article, through its provisions, is intended to protect the quality of water obtained from public supply wells, potable water supply wells, and other public water systems.
(d) This article shall authorize the establishment of a funding mechanism for the operation and implementation of an aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.103. - Compliance with Comprehensive Plan.

The contents of this article shall meet or exceed the goals, objectives and policies established in the adopted Comprehensive Plan.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.104. - Public education and reporting requirements.

(a) A public program shall be conducted in order to correct current practices regarding the use, storage, and disposal of regulated substances, and to provide for the protection of water resources in the county.

(b) An annual report shall be presented to the Board of County Commissioners and to the Tallahassee City Commission detailing the extent of the public education activities, and the status of activities of the aquifer protection program.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.105. - Territorial applicability.

The aquifer/wellhead protection area shall include all land and surface water and ground water within the county.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.106. - Regulated substances—Designated.

Regulated substances shall mean the following:

(1) Substances, including degradation and interaction products, which because of quality, concentration, or physical/chemical characteristics (including ignitability, corrosivity, reactivity, radioactivity, mutagenicity, bioaccumulative effect, or persistence in nature) may cause a violation of Florida Department of Environmental Protection (FDEP) ground water standards pursuant to Chapter 62-520, F.A.C.; and

(2) Those substances set forth in the lists, as amended from time to time, entitled, "Lists of Hazardous Waste" (40 CFR 261, subpart D), "Hazardous Constituents-Appendix VIII," (40 CFR 261), and "EPA Designation Reportable Quantities and Notification Requirements for Hazardous Substances Under CERCLA" (40 CFR 302.4); and

(3) Substances which have known hazardous properties as listed in 40 CFR 302 by the EPA; and

(4) Substances that are restricted-use pesticides according to F.S. ch. 487, or which are listed in F.A.C. chs. 5E-2 or 5E-9; and

(5) Water which contains total dissolved solids (TDS) in excess of 10,000 parts per million (ppm) or chlorides in excess of 500 ppm.

(Ord. No. 07-20, § 2, 7-10-07)
Sec. 10-10.107. - Regulated entity—Exemptions.

(a) The aquifer protection coordinator shall maintain a list of regulated entities with their associated four-digit Standard Classification Codes (SIC) and/or six-digit North American Industry Classification System (NAICS) Code, as appropriate. This list will be made available upon request.

(b) Exemptions. This article does not apply to:

(1) The transportation of any regulated substance, provided that the transporting motor vehicle is in continuous transit. However, if the transporting vehicle containing regulated substances is not regulated by the U.S. Department of Transportation or the State Department of Transportation or the State Department of Highway Safety then it shall be deemed stationary (not in continuous transit) and must be registered.

(2) The use of any regulated substance in a vehicle or lawn maintenance equipment as a fuel or lubricant.

(3) Retail or wholesale establishments that store or handle regulated substances for resale in their original unopened containers, provided that no individual container of regulated substances exceeds five gallons if liquid or 50 pounds if solid.

(4) The use of regulated substances for cleaning, maintaining, pest control, or any other use by households that are not regulated entities.

(c) An affected person may request a special exemption from this article. In order to obtain such an exemption, such person must demonstrate by a preponderance of competent, substantial evidence to the aquifer protection coordinator that special or unusual circumstances and adequate technology exists to isolate the facility or activity from soils, groundwater, or surface water. In granting the special exemption, the aquifer protection coordinator may prescribe any additional appropriate conditions that are necessary to protect soils, groundwater, or surface water.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.108. - Discharge causing contaminated groundwater prohibited.

It shall be unlawful to discharge any substance in a manner that may cause contaminated groundwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.109. - Stormwater.

Stormwater quality treatment shall be regulated through the applicable provisions of the Environmental Management Act of Leon County or the City of Tallahassee Environmental Management Ordinance, as amended, whichever is appropriate.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.110. - Program funding.

(a) Fees may be established by resolution in accordance with the Comprehensive Plan settlement agreement requirement that user fees be collected to contribute to the cost of the inspection program.

(b) Fees may be established by resolution to provide a funding mechanism for the operation and implementation of future aquifer protection activities and remediation.
DIVISION 2. - VIOLATIONS AND ENFORCEMENT

Sec. 10-10.201. - Generally; delegation of authority; interlocal agreement.

(a) **Enforcement.** This article shall be strictly enforced in accordance with the enforcement procedures established by the county in addition to any established federal or state enforcement procedures.

(b) **Delegation of authority.** Pursuant to an interlocal agreement between Leon County, Florida and the City of Tallahassee, the aquifer protection coordinator (APC) who is a City of Tallahassee employee, or his or her designee, is hereby delegated authority to enforce the provisions of this article. Such authority shall include but is not limited to the following job duties as set forth in the interlocal agreement:

1. Supervise city environmental inspectors who conduct on-site inspections at regulated entities for compliance with this article.
2. Oversee the scheduling of on-site inspections of regulated entities, and the maintenance of the current aquifer protection program database.
3. Provide an annual report to the Board of County Commissioners and the City of Tallahassee Commissioners describing, in detail, the status of activities, including enforcement mechanisms of the aquifer protection program.
4. Coordinate with other city and/or county departments, programs and employees, as needed, to implement the aquifer protection program.

Sec. 10-10.202. - Persons held liable for violations.

For the purpose of this article both the property owner and the violator shall be held jointly liable for all activities that may contribute to groundwater contamination that occur on the subject property.

Sec. 10-10.203. - Procedures for notification of violation; procedures for remedial action.

(a) When a violation of this article has occurred the aquifer protection coordinator or his/her designee shall issue a written notice to the person in violation, identifying the nature and location of the violation and specifying that remedial action is necessary to bring the violation into compliance. The person in violation shall commence remedial action within two weeks of the notice of violation, and shall have such time as may be specified in the notice to complete the remedial actions required to achieve compliance with this article. If a completion deadline is not specified in the notice, a timeframe shall be agreed upon by the responsible party and the aquifer protection coordinator. The following cleanup criteria shall apply to remedial action:

1. **Generally.** If a facility is found to have visible signs of contamination or if a reportable discharge has occurred that may affect soil, surface water, or groundwater, the facility owner may be required to conduct an investigation which may include, but not be limited to, soil borings, soil or groundwater sampling and analysis, or monitoring well installation pursuant to the provisions of this section.

2. Any affected groundwater or surface water must be remediates to drinking water standards, if possible, or to standards provided for in Rule 62-520, F.A.C.
(3) Affected soils shall be remediated using best available technologies for the particular contaminant that has been released.

(4) If any soil work is to be performed, all stormwater sedimentation erosion controls must be in place in accordance with all environmental management ordinances.

(5) Applicable rules and guidance include but are not limited to:

a. Ch. 62-770, F.A.C., which establishes the procedures that shall be followed for petroleum and petroleum product contamination.

b. Chs. 62-761 and 62-762, F.A.C., which establish the procedures that shall be followed for closure of storage tanks.

c. Established FDEP enforcement cases shall follow FDEP’s Model Orders for Corrective Action or the procedures established by consent order.

d. Sampling procedures and laboratory analysis shall meet the requirements of F.S. § 403.0625.

(b) A copy of the notice of violation issued pursuant to this article shall be served upon the affected persons by either hand delivery or certified mail. Upon receipt of such notice, the property owner shall post the notice on the site. A notice of violation may be directed to the person owning the land upon which the violation has occurred or to any person who has committed the violation or both. When immediate corrective actions are warranted under the provisions of section 10-10.204, reasonable effort shall be made to provide notice as specified above, but when such notice cannot be immediately accomplished, sufficient notice may be given by physically leaving a copy of the notice or order at the address of the owner or the property.

(c) Upon satisfactory completion of corrective action and remedial steps required by a notice of violation, the aquifer protection coordinator shall forthwith issue a notice of compliance.

(d) In the event a violation involves a scenario in which the aquifer protection coordinator does not have adequate resources to enforce the violation, such violation shall be referred by the aquifer protection coordinator to the department of environmental protection for enforcement.

(e) Minimization of potential groundwater contamination. All facilities with discharges of regulated substances shall take action to eliminate the discharge and minimize the possibility of groundwater contamination, and pursue remedial action.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.203. - Emergency corrective actions; imminent threat of danger; remediation activities; investigation, monitoring and cleanup of suspected or known discharges.

(a) The aquifer protection coordinator, or his/her designee, may require emergency corrective action as described in section 10-10.203 if the discharge of regulated substances is resulting in imminent threat of contamination of surface water or groundwater, or danger to life or property. Initiation of any required clean-up activities shall commence within 24 hours of discovery of the violation by the aquifer protection coordinator or his/her designee, and shall be completed within a time specified by the aquifer protection coordinator. Failure to take such immediate corrective action when notified of the need for such action shall constitute a violation of this article. If immediate corrective measures are not taken and there is an imminent danger to the health, safety and welfare of the public, the aquifer protection coordinator or his/her designee may enter upon lands, take corrective actions, and, if necessary, refer the matter to the Leon County Code Enforcement Board in order to place a lien on the real property of such person or persons to recover the costs of the corrective measures or refer the matter to the state department of environmental protection for enforcement.

(b) Any lien issued pursuant to this article and determined under the authority of this article shall be imposed only after notice has been given to the owner of the property upon which the lien is sought.
to be imposed, has been given a reasonable opportunity to be heard. Such lien shall be recorded with the clerk of the circuit court and may be enforced under the provisions of F.S. Ch. 125.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.205. - Penalty.

(a) Any person violating any provision of this article shall be punished according to law or in accordance with Leon County enforcement procedures. Each day any violation continues without corrective activities shall be considered as a separate offense.

(b) If the person in violation fails to complete remedial action within the time allowed, the aquifer protection coordinator may refer the matter to the Leon County Code Enforcement Board who may initiate other enforcement actions as authorized by law.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.206. - Environmental and building permits.

No environmental or building permit shall be issued for a site on which a violation of this article exists, or until a determination is made by the aquifer protection coordinator as set forth in section 10-10.301(a) of this article. The aquifer protection coordinator shall coordinate with the Leon County and City of Tallahassee Growth Management Departments in order to prevent the issuance of environmental or building permits for a site on which a violation of this article has occurred.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.207. - Injunctions.

Affected persons may seek an injunction against any violation of the provisions of this article and recover from the violator such damages as he or she may suffer, including but not limited to, the damage to property as a result of a release of regulated substances.

(Ord. No. 07-20, § 2, 7-10-07)

DIVISION 3. - PREVENTATIVE MEASURES

Sec. 10-10.301. - Inspections of regulated entities.

(a) The aquifer protection coordinator and designated inspectors are hereby authorized to make inspections at normal operational hours of all entities or activities regulated by this article in the county in order to determine proper compliance with the provisions of this article.

(b) If a person who has common authority over a building, structure, or land does not permit an inspection, the inspection may be rescheduled and shall be noticed by certified mail. Failure of such person to thereafter permit an inspection will be sufficient grounds and probable cause for a court of competent jurisdiction to issue an administrative warrant for the purpose of inspecting, surveying, or examining the premises.

(c) If a building, structure or land appears to be vacant or abandoned, and the property owner cannot be readily contacted in order to obtain consent for an inspection, the aquifer protection coordinator or inspector may enter into or upon any open or unsecured portion of the premises in order to conduct an inspection.
(d) The aquifer protection coordinator and inspectors shall have available and upon request present official identification when making inspections.

(e) It shall be the duty of all city or county law enforcement officers to assist in making inspections when such assistance is requested by the aquifer protection coordinator or inspectors.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.302. - Reporting of discharges.

(a) Any discharge of a regulated substance at the reporting thresholds established in section (b) below in the county shall be reported immediately by the regulated entity owner, operator, or responsible party to the aquifer protection coordinator or his/her designee. Such notification shall in no way alleviate the owner, operator, or responsible party from other local, state, or federal reporting obligations as required by law. If necessary, the aquifer protection coordinator or his/her designee shall inform the appropriate emergency response agency of the substance discharged, the amount, location, duration of discharge and the potential hazard to groundwater if known.

(b) Threshold reporting quantities are as follows:

(1) The following substances and chemicals shall be reported if discharged in an amount equal to or greater than one gallon:
   a. Chlorinated solvents including but not limited to:
      1. Carbon tetrachloride.
      2. Tetrachloroethylene.
      3. Trichloroethylene.
      4. 1,1,1-trichloroethane.
      5. 1,2-dichloroethane.

(2) The following substances and chemicals as referenced in 40 C.F.R. 180, as amended, shall be reported immediately if discharged in an amount equal to or greater than five gallons:
   a. The following pesticides, include, but are not limited to (specifically generic names):
      1. Fenuron.
      2. Terbacil.
      b. Phenolic compounds.

(3) Petroleum or petroleum products including petroleum based solvents shall be reported if discharged in an amount equal to or greater than five gallons.

(4) All other regulated substances listed in section 10-10.106, shall be reported immediately if discharged in quantities greater than or equal to five gallons of liquid or 50 pounds if solid.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.303. - Reporting of sinkholes.

The aquifer protection coordinator shall establish a contact point for the reporting of newly formed sinkholes. Sinkholes shall be reported prior to backfilling. Backfill material shall be uncontaminated and of lower permeability than the surrounding soil.
Sec. 10-10.304. - Best management practices to prevent discharges of regulated substances.

(a) Best management practices (BMPs) to prevent discharges of regulated substances shall be developed and made available to owners and operators of regulated entities.

(b) General business practices/containment.

(1) Generally. All containers of regulated substances are subject to this section of this article. All regulated entities shall inspect, on a weekly basis, containers holding regulated substances for leaks. Visual inspection is satisfactory provided that the location of the containers can be inspected to a degree which reasonably assures that breakage or leakage can be detected by such inspection.

(2) New construction containment of regulated substances. Leakproof trays, floor curbing or other secondary containment systems shall be installed under containers of any regulated substance in liquid form. The secondary containment shall be of adequate capacity (at least 110 percent the volume of the stored containers) to handle all spills, leaks, and overflows. The specific design and selection of materials shall be appropriate to preclude any regulated substance loss to the environment. Containment systems shall be operated so that the intrusion of precipitation is effectively managed. These requirements shall apply to all production and handling areas, storage areas, loading and off-loading areas, and above ground and underground storage tank areas.

(3) Retrofitting or upgrading. All property owners who store, handle, use, or produce a regulated substance shall retrofit or upgrade to new construction containment standards whenever building improvements are planned. Storage facilities regulated by chs. 62-761 or 62-762, F.A.C. must meet the required retrofitting schedule. All retrofitting or upgrading construction provisions must be met and reviewed either during building plan review or during the inspection as required by this article.

(4) Underground and above-ground petroleum product storage tanks. All un-used residential and nonresidential underground and above-ground storage tanks must have all fuel removed by a registered petroleum or used oil transporter.

(5) Activities. Any activities involving regulated substances where spills and/or leaks are likely to occur must be conducted over an impervious surface or containment device. Any spills shall be promptly cleaned up.

(6) Disposal. All regulated substances shall be properly disposed of or recycled prior to issuance of any environmental or building permit. The Aquifer Protection Coordinator shall coordinate with the Leon County Growth Management Department in order to assure that such substances are properly disposed of.

(7) Containers. Containers of regulated substances shall be adequately protected from precipitation and water intrusion.

(Ord. No. 07-20, § 2, 7-10-07)

Sec 10-10.305. - New wells prohibited within 400 feet of available water system.

(a) General prohibition. No person shall drill or reinstall any well which is located or proposed to be located on property that abuts and is within 400 feet of (1) an available community water system line or (2) an existing or planned well that is, or is intended to be, used in providing water for a community water system (as defined in F.A.C. § 62-550.200(12)).

(b) Such prohibition shall not apply to wells constructed for a community water system, or to monitoring wells required for the investigation, remediation, or continued monitoring of contamination.
Sec. 10-10.306. - Injection wells, heat exchange wells and drainage wells.

(a) *Injection wells.* Any well used for the purpose of injecting regulated substances or fluids that do not meet class G II water quality standards as defined in Chapter 62-520, F.A.C. to groundwater is hereby prohibited.

(b) *Heat exchange wells.*

1. Any well used for the purpose of withdrawal and subsequent reinjection to the Floridan Aquifer shall not alter existing chemical, radiological, or biological water quality.

2. All reinjected water from heat exchange wells shall meet all primary, secondary and ch. 62-3, F.A.C., drinking water standards and FDEP groundwater guidance standards.

3. The owner of any heat exchange well operated in the county shall not discharge refrigerants to groundwater.

4. All newly installed heat exchange wells shall be designed to prevent air entrainment in the reinjection process. All existing heat exchange wells must be retrofitted in order to prevent air entrainment in accordance with a schedule as determined by the aquifer protection coordinator.

5. All owners of nonresidential heat exchange wells shall install a sampling tap on the withdrawal and the reinjection well that will be suitable for sample collection for both wells in accordance with a schedule as determined by the aquifer protection coordinator. The City of Tallahassee Aquifer Protection Coordinator is hereby delegated authority to conduct water quality testing pursuant to this section.

6. Any owner or operator of a nonresidential heat exchange well system shall be required to have a flow measuring device and method for totaling annual flow and record the annual flow in the withdrawal and reinjection wells in accordance with a schedule determined by the aquifer protection coordinator. The flow information shall be kept on file by the owner for a period of five years.

7. All owners or operators of wells used for withdrawal and subsequent reinjection for the heat exchange process that pump greater than 100,000 gallons per day shall be required to sample the withdrawal and reinjection water annually for water quality standards. The results shall be kept on file by the owner for a period of five years.

8. The following governs corrective action:

a. In the event of a discharge to the reinjection system of any regulated substance, or if the reinjection water does not meet all primary drinking water quality standards, the well owner will be required to remediate the reinjection water and the affected withdrawal water to all primary drinking water standards at his own expense.

b. Remediation must be conducted using sound hydrogeologic and engineering principles and must continue until the withdrawal and reinjection water meets all primary drinking water quality standards.

c. The responsible party for all remediation projects is required to keep the aquifer protection coordinator informed of his progress, any problems or changes in status of the remediation process. The aquifer protection coordinator reserves the right to conduct split water sampling to verify any and all results.

(c) *Drainage wells.*

1. As of February 7, 1992, the installation of any well for the purpose of surface drainage is prohibited.
(2) All owners of property that contain drainage wells must properly abandon all such wells in accordance with a schedule determined by the aquifer protection coordinator. The appropriate abandonment permit must be obtained from the Northwest Florida Water Management District.

(3) Any drainage well that is identified in a new development project study must be properly abandoned prior to commencement of any construction.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.307. - Well maintenance, well abandonment and geotechnical borings.

(a) **Well maintenance.** Any owner of a well shall properly maintain the well in accordance with the standards of the Northwest Florida Water Management District (NWFWMMD).

(b) **Well abandonment.**

   (1) Any well, injection well, dry well or drainage well that is not being used shall be properly abandoned at the property owner(s) expense following the guidelines established by the Northwest Florida Water Management District (NWFWMMD).

   (2) In instances that can be determined by the aquifer protection coordinator, the well may not need to be abandoned but the evaluation and determination of the necessity of abandonment shall be coordinated through the NWFWMMD.

(c) **Geotechnical borings.**

   (1) All borings greater than or equal to 25 feet in depth shall be properly grouted with neat cement following the rules of the NWFWMMD to the surface to prevent downward migration of surface and subsurface contaminants along the borehole to the Floridian Aquifer. All borings less than 25 feet in depth shall be backfilled with the original drilled soil or with grout to the surface.

   (2) Where the boring is advanced through asphalt or concrete it shall be patched at the surface with a similar impervious material.

   (3) If contamination is detected in any geotechnical boring, the contaminated soil shall not be used as replacement material and the horizontal and vertical extent of the contamination must be assessed and reported following the applicable provisions of section 10-10.203.

   (4) Any boring less than five feet in depth, under a proposed building footprint, or in an area where excavation depth will exceed the boring depth is not required to be backfilled.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-10.308. - Septic tanks and drainfields.

(a) The discharge of a regulated substance to a septic system shall be considered a violation of this article.

(b) If upon testing, a regulated substance is identified in the septic tank or drainfield, and may cause violation of groundwater standards, the regulated entity will be required to conduct the investigation required by section 10-10.203.

(c) Any regulated entity that is found to have discharged regulated substances to a septic system shall be required to connect to a centralized sanitary sewer system if such system is available and within 1,000 feet of the property within 120 days of notice of the violation or in accordance with a schedule approved by the aquifer protection coordinator.

(d) Floor drains, grease traps, grease interceptors and oil/water separators shall be constructed to prevent infiltration of regulated substances to soil, groundwater, or surface water.
Sec. 10-10.309. - Inventory or proof of proper disposal; recycling of regulated substances.

(a) Proof of proper disposal. It shall be considered a violation of this article if proof of proper disposal is not properly documented per this section.

1. Inventory or manifest documentation required by the Resource Conservation and Recovery Act (RCRA)-40 CFR 262 subpart B, shall be required to be kept by each facility that is regulated by RCRA for all substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner.

2. All regulated entities that are not regulated by RCRA shall be required to keep an inventory of the types of regulated substances that are used or considered waste products, to ensure that all substances are handled in an environmentally acceptable manner. The method of record keeping may be of their own choosing, however, such records shall allow inspectors to determine if used or waste products are being disposed of in compliance with federal, state, and local laws.

3. Each regulated entity shall provide documentation such as a contract or agreement with a certified waste hauler, or other documentation that shows that regulated substances or wastes are being disposed of using environmentally acceptable methods or are being recycled. Such documentation shall be maintained for a minimum of five years.

4. Disposal records shall be made available during normal operational hours for the purpose of inspection.

(b) Recycling regulated substances. It shall be required that regulated substances should be recycled or reused if economically and technically feasible.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIII. - STORMWATER SYSTEM MANAGEMENT

Sec. 10-13.101. - Authority.

The county is authorized by the Florida Constitution and the provisions of the Florida Statutes Chapter 125, Chapter 163, and Chapter 403, to establish and administer programs for stormwater management including the control of pollution caused by stormwater.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.102. - Findings and determinations.

It is hereby found, determined and declared as follows:

A. The contribution of pollutants through discharges from storm sewer systems has an adverse impact on receiving waters in the county and surrounding areas.

B. Improperly treated discharges from industrial activities, interconnected municipal storm sewer systems (MS4), illicit discharges, spilling, dumping, or improper disposal of material other than stormwater to the municipal storm sewer system of the county will adversely affect the quality of water receiving such discharges.

C. The United States Environmental Protection Agency, pursuant to Title 40, Section 122.26 of the Code of Federal Register, has mandated that the county through the issuance of National Pollutant Discharge Elimination System (NPDES) Permit No. FLS000033 or successor permits,
must provide legal authority to control discharges to the municipal separate storm sewer system in order to control the quality of discharges from the county's storm sewer system to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.103. - Definitions.

For the purpose of this article, the following definitions shall apply; words used in the singular shall include the plural, and the plural singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words defined herein shall be construed as defined herein whether the first letter of the defined term is capitalized or not. Words not defined herein shall be construed to have the meaning given by the common and ordinary use.

A. "Best management practices" or "BMPs" means schedules of activities, prohibitions of practice, maintenance procedures, and other management practices to prevent or reduce the pollution of waters from entering the MS4 or being discharged from the MS4. BMPs also include treatment requirements, operating procedures, and practices to control facility site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage.


C. "Construction activities" means the alteration of land during construction and includes such activities as clearing, grading, and excavation.

D. "Director" means the Leon county administrator, or his or her designee.

E. "High risk facility" means any nonresidential facility, including commercial areas, that discharge to the MS4 and meets any of the following conditions:

1) Perform municipal landfill(s), hazardous waste treatment, storage, disposal, and recovery activities;

2) Subject to reporting requirements of EPCRA Title III, Section 313; or

3) Is determined by the county to be contributing substantial pollutant loading to the MS4.

This may include any facility that: a) has a non-stormwater discharge that is not specifically exempted in section 10-13.110 of this article; or b) has material-handling equipment or activities, raw materials, intermediate products, final products, waste materials, by-products, or industrial machinery that are exposed to stormwater.

F. "Illicit connection" means any manmade conveyance connecting a non-stormwater discharge to the county's MS4 or waters of the United States, unless otherwise exempt under this article or permitted.

G. "Illicit discharge" means any discharge to the county's MS4 or to waters of the United States which is not composed entirely of stormwater, unless exempted pursuant to this article, or the discharge to the county's MS4 or to waters of the United States which is not in compliance with federal, state, or local permits.

H. "Industrial activities" means, for the purposes of this article, activities at facilities identified by the United States Environmental Protection Agency as requiring an NPDES stormwater permit in accordance with 40 CFR Section 122.26 or amendments thereto.

I. "Maximum extent practicable" or "MEP" means the technology-based discharge standard for municipal separate storm sewer systems established by CWA Section 402(p).
J. "Municipal separate storm sewer system" or "MS4" means a conveyance, storage area, or system of conveyances and storage areas (including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, manmade channels, storm drains, stormwater management facilities, and other structural BMPs) owned or operated by a local government that discharges to waters of the United States or other MS4's, that is designed solely for collecting, treating, or conveying stormwater, and that is not part of a publicly owned treatment works (POTW) as defined by 40 Code of the Federal Register 122.2 or any amendments thereto.

K. "NPDES" means national pollutant discharge elimination system under Title 40 of the United States Code of Federal Regulations.

L. "Pollutant" means dredged spoil, sediment, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended 42 U.S.C. 2011 et seq.), heat, wrecked or damaged equipment, rock, sand, and industrial, municipal or agricultural waste discharged into the MS4.

M. "Runoff" means the surface flow of water which results from, and occurs following, a rainfall event.

N. "Spill" means temporary, unintentional illicit discharge.

O. "Waters of the United States" means surface and ground waters as defined by 40 Code of the Federal Register 122.2.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.104. - Stormwater discharges to the MS4 and waters of the United States.

A. Discharges to the county's MS4 shall not impair the operation of the MS4 or contribute to the failure of the MS4 to meet any local, state, or federal requirements, including, but not limited to, NPDES Permit Number FLS000033, and successor permits. Discharges to the waters of the United States shall be controlled to the maximum extent practicable as defined in the NPDES Permit Number FLS000033, and successor permits.

B. Any person responsible for illicit connections and illicit discharges to the county's MS4 or waters of the United States within the county shall provide corrective measures as approved by the director and may be subject to paying fines and damages as provided herein.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.105. - Stormwater discharges from industrial or construction activities.

A. Stormwater discharges from industrial or construction activities shall be treated or managed on-site, in accordance with appropriate federal, state, or local permits and regulations, prior to discharge to the county's MS4 or to waters of the United States.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.106. - Control of pollutant contributions from interconnected MS4's.

The discharge of stormwater between interconnected state, county, city or other MS4's shall not cause the county's MS4 to be in violation of the provisions of NPDES Permit Number FLS000033, or successor permits. Owners of any section of the interconnected MS4 shall be responsible for the quality
of discharge from its portion of the MS4 in accordance with interlocal agreements controlling the
discharge of pollutants in stormwater from one MS4 to another.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.107. - Prohibition of illicit discharges and illicit connections.

A. Illicit discharges and illicit connections are prohibited.

B. Persons responsible for illicit discharges or illicit connections shall immediately, upon notification or
discovery, initiate procedures to cease the illicit discharge or illicit connection, or obtain appropriate
federal, state, or local permits for such discharge or connection.

C. This section is retroactive and applies to any illicit discharge or illicit connection made to the county's
MS4 or waters of the United States within the county prior to the effective date of this article, unless
made under federal, state, or local permit or other authorization.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.108. - Inspection and monitoring for compliance.

Designated inspectors shall be granted access for inspection of facilities, structures, or properties,
whether private or public, discharging or suspected of discharging to the county's MS4 or waters of the
United States in order to effectuate the provisions of this article and to investigate violations or complaints
of potential violations of any of the terms herein. All structures and processes which allow discharges to
the county's MS4, as well as records concerning them, shall be made accessible to designated inspectors
for this purpose.

Designated inspectors shall develop and maintain a high risk industrial facilities inventory of such
facilities which discharge to the MS4, as defined herein, and as based on the description identified in the
county's NPDES MS4 Permit (FLS000033) or any successor permit. Designated inspectors shall have the
authority to conduct inspections of high risk industrial facilities. Inspections will involve visual evaluation
of non-structural and structural BMPs. These inspections shall include, but may not be limited to, proper
storage and containment practices for material exposed to stormwater; use of good housekeeping
practices to minimize pollutant discharge and dumping; review of waste management plans, spill
prevention plans or spill cleanup plans; and ensuring constructed BMPs are operational and are being
maintained.

Designated inspectors shall have the authority to monitor stormwater discharges associated with
high risk industrial facilities which discharge to the county's MS4. Monitoring shall be performed for those
pollutants described in the county's NPDES MS4 permit. The monitoring will involve the collection of
stormwater samples from a single storm event on an annual basis.

(Ord. No. 07-20, § 2, 7-10-07)


Structural controls and other BMPs used for controlling the discharge of pollutants to the county's
MS4 or to waters of the United States shall be operated and maintained so as to function in accordance
with permitted design or performance criteria and in compliance with federal, state, or local permit
conditions and regulations.

(Ord. No. 07-20, § 2, 7-10-07)
Sec. 10-13.110. - Exemptions.

The following non-stormwater discharges to the MS4 shall be allowed where they are not identified as a source of pollutants to the waters of the United States:

A. Discharges which have obtained appropriate federal, state, or local permits and are in compliance with the permit conditions.

B. Discharges from:
   1. Water line flushing;
   2. Landscape irrigation;
   3. Diverted stream flows;
   4. Rising ground waters;
   5. Uncontaminated ground water infiltration [as defined at 40 CFR 35.2005(20)] to separate storm sewers;
   6. Uncontaminated pumped ground water;
   7. Discharges from potable water sources;
   8. Foundation drains;
   9. Air conditioning condensate;
   10. Irrigation water;
   11. Springs;
   12. Water from crawl space pumps;
   13. Footing drains;
   14. Lawn watering;
   15. Individual residential car washing;
   16. Flows from riparian habitat and wetlands;
   17. Dechlorinated swimming pool discharges;
   18. Street wash waters; and
   19. Discharges or flows from emergency fire fighting activities.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.111. - Enforcement, penalties, and legal proceedings.

A. This article shall be administered by the director. All persons in violation of this article shall address such violations immediately upon written notification by the county. Violations shall be addressed by providing a written response to the director, outlining the temporary and permanent measures that will be taken to correct the violation and a proposed schedule for completion of the measures. Proposals for corrective action are subject to the approval of the director.

B. The director is authorized to issue cease and desist orders in the form of written official notices sent by certified mail, return receipt requested, or by hand delivery to the person(s) responsible for the violation. Specific activities and operations may be ordered to be ceased based upon the following criteria:
   1. In a situation that may have a serious effect on the health, safety, or welfare of the public or the environment, including the quality of stormwater in the county's MS4; or,
2. When irreversible or irreparable harm may result, in the reasonable opinion of the director, and immediate cessation of the activity is necessary to protect the public or the environment, including the quality of stormwater in the county's MS4.

C. Any person who violates this article and/or fails to comply with the requirements of any provision of this article shall be subject to prosecution before the Code Enforcement Board of Leon County, pursuant to Article 11 of Chapter 6, Leon County. Each day of violation shall constitute a separate violation.

D. In addition to any fines which may be imposed by the Leon County Code Enforcement Board, persons responsible for violation of this article shall be liable for all costs incurred by the county in correcting and/or monitoring the violation, including but not limited to sampling and analytical costs, and for all fines, whether local, state, or federal, imposed as a result of the violation.

E. If the persons responsible for the violation fail to take action required to correct the violation, the county has the right to take remedial action and to correct the violation. All cost incurred by the county in taking such actions shall be reimbursed by the persons responsible for the violation.

F. In addition to the remedies provided herein, the county is authorized to make application in a court of appropriate jurisdiction for an injunction restraining any persons from violating, or continuing to violate, provisions of this article. In addition, the county may also seek entry of a court order requiring restoration and mitigation for any impacted land or waters or request any other appropriate, applicable legal remedy, including reimbursement of court costs or other costs incurred by the county related to the violation.

G. In accordance with section 6-34, Leon County Code, any person violating any of the provisions of this article shall upon conviction thereof, be punished by a fine not to exceed $500.00 a day or by imprisonment not to exceed 60 days or by both such fine and imprisonment.

H. The county may elect to take any or all of the above remedies concurrently, and the pursuance of one shall not preclude the pursuance of others.

I. Any fines or other funds received as a result of enforcement under this article which are not used for specific purposes set forth in this article shall be deposited in the stormwater utility fund, established under Article IV of Chapter 18, section 125 of the Leon County Code.

J. If any fines or costs which accrue under this article are not paid by the violator as ordered, the county may impose a lien as authorized in subsection 6-34(c), Leon County Code.

(Ord. No. 07-20, § 2, 7-10-07)

Sec. 10-13.112. - Notices.

Any notices required by this article shall be sent from the director by U.S. Mail or hand delivery.

(Ord. No. 07-20, § 2, 7-10-07)

ARTICLE XIV. - FERTILIZER USE

Sec. 10-14.101. - Purpose and intent.

This article regulates the proper use of fertilizers by any fertilizer applicator; requires proper training of commercial and institutional fertilizer applicators; establishes training and licensing requirements; establishes a prohibited and restricted application period; specifies allowable fertilizer application rates and methods, fertilizer-free zones, low maintenance zones, and exemptions. The article requires the use of best management practices that provide specific management guidelines to minimize negative secondary and cumulative environmental effects associated with the misuse of fertilizers. These secondary and cumulative effects have been observed in and on the county's natural and constructed
stormwater and drainage conveyances, creeks, canals, springs, lakes, ponds, and other water bodies. Collectively, these water bodies are an asset critical to the environmental, recreational, cultural and economic well being of the county's residents and the health of the public. Overgrowth of algae and vegetation hinder the effectiveness of flood attenuation provided by natural and constructed stormwater and drainage conveyances. Regulation of nutrients contained in fertilizer will help improve and maintain water and habitat quality.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.102. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this article, except where the context clearly indicates a different meaning:

Administrator means the county administrator, or designee.

Application or apply means the actual physical deposit of fertilizer to turf or landscape plants.

Applicator means any person who applies fertilizer on turf and/or landscape plants in the unincorporated areas of the county.

Best management practices under this article, means turf and landscape practices or combination of practices based on research, field-testing, and expert review, determined to be the most effective and practicable on-location means, including economic and technological considerations, for improving water quality, conserving water supplies and protecting natural resources.

County means the unincorporated areas of the county.

County approved best management practices training program means a training program approved by the administrator that includes at a minimum, a) the most current version of the "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," as revised and, b) all of the provisions and requirements of this article; or c) an alternative training program under section 10-14.111 of this article.

Code enforcement officer, official, or inspector means any authorized agent or employee of the county whose duty it is to ensure code compliance.

Commercial fertilizer applicator means any person who applies fertilizer on turf and/or landscape plants in the county in exchange for money, goods, services or other valuable consideration.

Fertilize, fertilizing, or fertilization means the act of applying fertilizer to turf, specialized turf, or landscape plants.

Fertilizer means any substance or mixture of substances that contains one or more recognized plant nutrients and promotes plant growth, or controls soil acidity or alkalinity, or provides other soil enrichment, or provides other corrective measures to the soil.

Institutional fertilizer applicator means any person, other than a non-commercial, or commercial applicator (unless such definitions also apply under the circumstances), that applies fertilizer for the purpose of maintaining turf and/or landscape plants. Institutional fertilizer applicators shall include, but shall not be limited to, owners and managers of public lands, schools, parks, athletic fields, religious institutions, utilities, industrial or business sites and any residential properties maintained in condominium and/or common ownership.

Landscape plant means any native or exotic tree, shrub, or groundcover (excluding turf).

Lawn has the same definition as turf.

Low maintenance zone means an area a minimum of six feet wide adjacent to watercourse, which is planted and managed in order to eliminate the need for fertilization and minimize the need for watering, mowing, etc.
**Noncommercial fertilizer applicator** means any person other than a commercial fertilizer applicator or institutional fertilizer applicator who applies fertilizer on turf and/or landscape plants, such as an individual owner of a single-family residential unit.

**Pasture** means land used for livestock grazing that is managed to provide feed value.

**Person** means any natural person, business, corporation, limited liability company, partnership, limited partnership, association, club, organization, and/or any group of people acting as an organized entity.

**Prohibited application period** means the time period during which a flood watch or warning, or a tropical storm watch or warning, or a hurricane watch or warning, or a three-day cone of uncertainty is in effect for any portion of Leon County, issued by the National Weather Service, or if heavy rain is expected.

**Readily available nitrogen** means the water-soluble fraction of formulated fertilizer determined by the sum of the percentage of nitrate and ammoniacal nitrogen plus other water soluble nitrogen and/or urea nitrogen in the guaranteed analysis section of the label.

**Turf, sod, or lawn** means a piece of grass-covered soil held together by the roots of the grass.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.103. - Applicability.

This article shall be applicable to and shall regulate any and all applicators of fertilizer and areas of application of fertilizer within the unincorporated areas of the county, unless such applicator is specifically exempted by the terms of this article. This article shall be applicable to and shall regulate any and all application of fertilizer within the unincorporated areas of the county unless otherwise provided in article IV of chapter 10 of the Leon County Land Development Code (LDC). In case of a conflict between the requirements in article IV of chapter 10, LDC, and this article, the provisions in article IV of chapter 10, LDC, shall prevail. This article shall be prospective only, and shall not impair any existing contracts.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.104. - Timing of fertilizer application.

No applicator shall apply fertilizers to turf and/or landscape plants during the prohibited application period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.105. - Fertilizer content and application rates; irrigation with reclaimed wastewater.

(a) Fertilizers applied to turf and/or landscape plants within the unincorporated areas of the county shall be formulated and applied in accordance with requirements and directions provided by Rule 5E-1.003(2), Florida Administrative Code, Labeling Requirements For Urban Turf. Fertilizer content in reclaimed wastewater used for irrigation shall be applied in accordance with subsection 10-14.105(d).

(b) Except as provided in subsection 10-14.105(a), fertilizers shall be applied to turf and/or landscape plants at the lowest rate necessary. Nitrogen shall not be applied at an application rate greater than 0.7 pounds of readily available nitrogen per 1,000 feet\(^2\) at any one time based on the soluble fraction of formulated fertilizer, with no more than one pound total N per 1,000 feet\(^2\) to be applied at any one time and not to exceed the annual nitrogen recommendations in the Fertilization Guidelines for Established Turfgrass Lawns set forth below for convenience:
Fertilization Guidelines for Established Turfgrass Lawns Within the Unincorporated Areas of the County:

<table>
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<th>Species</th>
<th>Nitrogen recommendations (lbs N/1,000 feet²/year)</th>
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<tbody>
<tr>
<td>Bahia grass</td>
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<td>Bermuda grass</td>
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<td>St. Augustine grass</td>
<td>2-4</td>
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<tr>
<td>Zoysia grass</td>
<td>3-5</td>
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</table>

(c) Nitrogen fertilizer may not be applied to turf or landscape plants except as provided above unless a tissue deficiency has been verified by an approved test.

(d) The use of water from a reclaimed wastewater system must be in accordance with an approved reclaimed wastewater reuse nutrient management plan. The plan shall contain, at a minimum, the frequency and volume of application, restricted periods of application (if any), application rates and required best management practices. If fertilizer other than that contained in the reclaimed water is to be applied, the nutrient management plan shall show that the cumulative nutrient loading does not exceed those established in this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.106. - Impervious surfaces.

Fertilizer shall not be applied, spilled, or otherwise deposited on any impervious surfaces. Any fertilizer applied, spilled, or deposited, either intentionally or accidentally, on any impervious surface shall be immediately and completely removed to the greatest extent practicable. Fertilizer released on an impervious surface must be immediately contained and either legally applied to turf or any other legal site, or returned to the original or other appropriate container. In no case shall fertilizer be washed, swept, or blown off impervious surfaces into stormwater drains, ditches, conveyances, or water bodies.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.107. - Fertilizer free zones.

Fertilizer shall not be applied within ten feet of any pond, stream, watercourse, lake, drainage ditch, or wetland as defined by the Florida Department of Environmental Protection (Chapter 62-340, Florida Administrative Code) or from the top of a retaining wall associated with any of these features. If more stringent County Code regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations.
See article IV of chapter 10 of the Leon County Land Development Code. Newly planted turf and/or landscape plants may be fertilized in this zone only for the first 60-day establishment period.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.108. - Low maintenance zones.

A voluntary six-foot low maintenance zone is strongly recommended, but not mandated, from any pond, stream, water course, lake, wetland or from the top of a retaining wall associated with any of these features. A properly permitted swale/berm system is recommended for installation at the landward edge of this low maintenance zone to capture and filter runoff. No mowed or cut vegetative material should be deposited or left remaining in this zone or deposited in the water. Care should be taken to prevent the over-spray of aquatic weed products in this zone. If more stringent county regulations apply, this provision does not relieve the requirement to adhere to the more stringent regulations. See article IV of chapter 10 of the Leon County Land Development Code.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.109. - Mode of application.

Spreader deflector shields are required when fertilizing via rotary spreaders. Deflectors must be positioned such that fertilizer granules are deflected away from all impervious surfaces, fertilizer-free zones and water bodies, including wetlands.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.110. - Exemptions.

The provisions set forth above in this article shall not apply to:

(a) Bonafide farm operations as defined in the Florida Right to Farm Act, F.S. § 823.14, provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

(b) Other properties not subject to or covered under the Florida Right to Farm Act that have pastures used for grazing livestock provided that fertilizers are applied in accordance with the appropriate Best Management Practices Manual adopted by the Florida Department of Agriculture and Consumer Services, Office of Agricultural Water Policy for the crop in question.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.111. - Training and certification; presence on site of trained applicator during application of fertilizer.

(a) Within 180 days of the effective date of this article and every three years thereafter, all applicators of fertilizer within the unincorporated areas of the county, other than private homeowners on their own property, shall abide by and successfully complete a county-approved best management practices training program as defined in this article. Upon successful completion and compliance with the requirements in this article, a certificate of completion and a certification card valid for a period of three years will be provided by the entity providing the training. Persons working as employees and under the direct and physical supervision of commercial applicators that hold a current certificate of
completion and certification card shall be exempt from the requirement to complete a county-approved best management practices training program.

(b) At least one person holding a current county-approved best management practices training certificate shall be present at all times on any job site while applying fertilizer is in progress.

(c) Homeowners, and any other applicators not otherwise required to be certified are encouraged to follow the requirements of this article as well as the recommendations of the University of Florida IFAS Florida Yards and Neighborhoods program when applying fertilizers.

(d) Persons holding a certificate of training issued in conjunction with the Florida Green Industries Best Management Practices Program for protection of water resources in Florida; or, other state-approved certificate of training or, a certification issued by another local government, that includes at a minimum "Florida Green Industries Best Management Practices for Protection of Water Resources in Florida, June 2002," or newer as the basis for instruction, may obtain certification by the county after contacting the county's environmental compliance division or designee and presenting proof of the currently active status of training as described in paragraph (a) above, and attesting that he/she has received and read a copy of this article. The environmental compliance division may adopt policies related to this exception, and shall maintain a list of approved alternative training programs.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.112. - Enforcement.

It is the intent hereof that the administrative, civil, and criminal penalties imposed through execution of this article be of such amount as to ensure immediate and continued compliance with this article. This article shall be enforced by the Leon County Code Enforcement Board, as set out in Chapter 6 of the Leon County Code of Laws, if the penalties in this subsection are not collected within 14 days. A violation of this [article] ordinance is determined to be irreparable and irreversible, such that no action to cure the violation is possible and a penalty in the form of a fine is warranted. Violation of any provision of this article shall be subject to the following penalties:

(a) **First violation.** Written notification and education.

(b) **Second violation.** Fifty dollars for residential applicators applying fertilizer to their own property and $100.00 for commercial or institutional fertilizer applicators.

(c) **Third violation.** One hundred dollars for residential applicators applying fertilizer to their own property and $200.00 for commercial or institutional fertilizer applicators.

(d) **Fourth and subsequent violation(s).** A minimum of $100.00 for residential applicators applying fertilizer to their own property and a minimum of $200.00 for commercial or institutional fertilizer applicators, not to exceed $1,000.00.

(e) Any applicator that violates the provisions of this article may be responsible for the county's costs of prosecution of any violation, including any costs to remedy or clean up any environmental condition caused by an act, which constitutes a violation of this article.

(Ord. No. 09-34, § 1, 10-13-09)

Sec. 10-14.113. - Variances.

Any applicator of fertilizer regulated by the provisions of this article may apply to the board of adjustment and appeals for a variance from the requirements of this article.

(1) **Standards and procedures.** The applicant must identify the specific provisions of the fertilizer regulations for which a variance is requested, and shall address the following:
(a) Whether, as a result of soil or tissue content at the point of the proposed application or for other geographical, environmental or geological reasons or other circumstances, such person should not be required to adhere to the strict provisions of this article; and

(b) Whether such person is able and willing to use a less strict application method or alternative materials or methods; and

(c) A plan for fertilizer application, including where the fertilizer will be applied, the frequency of application, contents of fertilizer to be applied, and period of time for which the variance is requested.

(2) Following receipt of the variance application, the board of adjustment and appeals shall, at a timely regularly scheduled meeting:
   a. Approve the variance request or any portion thereof;
   b. Approve the variance request or any portion thereof subject to conditions;
   c. Disapprove the variance request, specifying the reasons therefore in writing; or
   d. Continue consideration of the variance request to a time certain.

(3) **Criteria for granting variance.** The board of adjustment and appeals may grant the variance request if it determines that:
   a. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and the soil or tissue content at the point of the proposed application is such that the provisions of the fertilizer regulations create a hardship for the applicant; or
   b. The applicant satisfactorily demonstrates that all practical alternatives have been evaluated, and due to unique geographical, environmental or geological reasons or other unique circumstances, the applicant should not be required to adhere to the strict provisions of the fertilizer regulations; and
   c. The applicant satisfactorily demonstrates that its plan for fertilizer application is consistent with the purpose and intent of the fertilizer regulations to the greatest extent feasible and that adverse impacts, if any, are appropriately mitigated.

(4) **Time periods for variances.** Any board of adjustment and appeals order approving a variance request to the fertilizer regulations shall establish an expiration date for the variance.

(Ord. No. 09-34, § 1, 10-13-09)
**LEON COUNTY CONTRACT ROUTING FORM**

County Contract No. **2970C**

**Division Contact:** Jessica M. Icerman, Assistant County Attorney  
Phone # 606-2500

**Department/Division:** Leon County Attorney's Office

**Contractor:** City of Tallahassee

**Address:** 300 S. Adams Street

City, State, Zip. Tallahassee, FL 32301  
Phone: (850) 891-5440

**Contract Period:** From **November 1, 2016** To **November 20, 2021**

**Renewal Periods:** Number _____ Term ______

**Contract Total $ Amount:** N/A  
**Procurement Method:** N/A  
**Forms Required:**  
- Public Entity Crimes Statement  
- Performance Bond  
- Materials & Payment Bond  
- Warranty Bond  
- Certification Regarding Debarment

**Contract Type:**  
- Conservation Easement  
- Construction  
- Continuing Supply  
- Deed  
- Interlocal Agreement  
- Grant  
- Lease  
- Other Services  
- Performance Agreement  
- Professional Services  
- Purchase  
- Other (Explain Below)

**Procurement Method:**  
- Bid*  
- RFP*  
- Sole Source  
- Gov't Entity  
- Other (Explain Below)

**Insurance Certificates:**  
- General Liability  
- Professional Liability  
- Workers' Compensation  
- Errors & Omissions  
- Automobile Coverage

**Awarded by:**  
- Purchasing Director  
- County Administrator  
- Board of County Commissioners

**Agenda Date:** 10/18/2016  
**Item #:** 3

**Comments:**

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**Routing:**

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**Return completed documents to:**  
[Signature: Shawn Williams, Leon County Attorney 810 Office]

Be sure to return and file a fully executed agreement with the Finance Division

PUR103 Rev. 05/10
AQUIFER/WELLHEAD PROTECTION PROGRAM
INTERLOCAL AGREEMENT

THIS INTERLOCAL AGREEMENT is made and entered into this 1st day of November, 2016 (the "Effective Date"), pursuant to the authority of Section 163.01, Florida Statutes, by and between LEON COUNTY, FLORIDA, a charter county and political subdivision of the State of Florida, hereinafter referred to as the “County” and the CITY OF TALLAHASSEE, a Florida municipal corporation, hereinafter referred to as the “City”.

RECITALS

WHEREAS, the City, by the through its Water Quality Division, pursuant to the Aquifer/Wellhead Protection Program Interlocal Agreement approved August 23, 2011, currently enforces County ordinances governing protection of the Floridan aquifer by monitoring, inspecting and, if necessary, instituting enforcement action, for the proper use, protection and storage of groundwater in the County; and

WHEREAS, the parties hereto desire to make the most efficient use of their resources and powers to cooperate for their mutual advantages and the County wishes to delegate its enforcement authority to the City by utilizing the services of the City of Tallahassee Water Quality Division to enforce its Aquifer/Wellhead Protection Program, Chapter 10, Article X of the Leon County Code of Laws; and

WHEREAS, Section 163.01(4), Florida Statutes, provides “a public agency of this state may exercise jointly with another public agency of the state, of any other state, or of the United States Government any power, privilege or authority which such agencies share in common and which each might exercise separately.”

NOW THEREFORE, in consideration of the mutual promises, covenants and obligations herein contained, and subject to the terms and conditions hereinafter stated, the parties hereto agree as follows:

1. **Delegation of Authority.** Leon County hereby delegates to the City of Tallahassee its authority to administer and enforce compliance with Chapter 10, Article X, Leon County Code of Laws. In carrying out such authority, the City’s Underground Utilities Water Quality Manager or designee, shall perform the following functions in furtherance of the City’s and the County’s effort to protect the aquifer and groundwater in Leon County:

   A. Supervise City environmental inspectors who conduct on-site inspections at regulated entities for compliance with Chapter 10, Article X of the Leon County Code of Laws.

   B. Oversee the scheduling of on-site inspections of regulated entities by utilizing the current aquifer protection program database.

   C. Provide information to the County’s designated Aquifer Protection Program contract
administrator and be available if needed to assist in presentation of an annual report to the Board of County Commissioners describing, in detail, the status of activities, including enforcement mechanisms carried out under the Aquifer Protection Program during the previous fiscal year.

D. Coordinate with other state, city and/or county employees, as needed, to implement the Aquifer Protection Program.

The City shall perform these duties in accordance with reasonable professional standards and in a satisfactory and proper manner as reasonably determined by the County and subject to City appropriation of funds for such purposes.

2. **Employee Designation.** The County and the City agree that all employees of the City involved in carrying out the obligations of the City under this Interlocal Agreement shall remain employees of the City and be subject to the City’s personnel rules and regulations.

3. **City Responsible for Operating Costs, Salary and Benefits.** The County and the City agree that the City shall be responsible for payment of all operating costs, including, but not limited to, salaries, pension plan, health and dental benefits, and insurance, associated with City employees. Any fees, fines or penalties assessed and collected under Aquifer Protection Program, while the program is administered by the City pursuant to this Interlocal Agreement, shall be paid directly to the City to be used for payment of operating costs of the program.

4. **Termination.** This Interlocal Agreement shall be effective as of the Effective Date written above and shall terminate on November 30, 2021, unless terminated as hereinafter provided.

A. **Termination for Cause.** If, through any cause, any party to this Interlocal Agreement shall fail to fulfill in timely and proper manner its obligation under this Interlocal Agreement, or if any party shall violate any of the covenants, agreements, or stipulations of this Interlocal Agreement, the party not in violation shall thereupon have the right to terminate this Agreement in whole or part by giving written notice to the party in such violation of such termination and specifying the effective date thereof, at least thirty (30) days before the effective date of such termination.

B. **Termination for Convenience.** Either the City or the County may terminate this Interlocal Agreement at any time by giving at least thirty (30) days notice in writing to the other party.

5. **Examination of Records.** The City agrees that the County or any of its duly authorized representatives shall have access to and the right to examine, audit, copy, excerpt and transcribe any directly pertinent books, documents, papers and records of the City, relating to this Interlocal Agreement.

6. **Contract Administrator.** The County Administrator or his designee shall be designated as the contract administrator for the purpose of acting as the County’s representative with
respect to questions regarding this Interlocal Agreement. The County Administrator or his designee shall have authority to transmit instructions, receive information and communicate the County’s policies to the City. He shall also examine all reports and other documents presented by the City and render in writing any decision pertaining thereto within a reasonable time so as not to delay the City. The County Administrator or his designee shall provide the City ready access to all data, files, reports or other information in possession of the County or readily available to it in order to fulfill the purpose of this agreement.

7. **Liability Limitation.** Each party hereto agrees that it shall be responsible for the negligent or wrongful acts or omissions of its employees in accordance with Florida law. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the limitations set forth under Florida law, including Section 768.28, Florida Statutes.

8. **Dispute Resolution.** Any disputes between the City and the County in respect to this Interlocal Agreement shall be resolved in accordance with the process set forth in Exhibit A of this Interlocal Agreement.

IN WITNESS WHEREOF, the parties have executed this Interlocal Agreement with the intent to be legally bound.

CITY OF TALLAHASSEE

ANDREW GILLEM
MAYOR

LEON COUNTY FLORIDA
BOARD OF COUNTY COMMISSIONERS

BILL PROCTOR
CHAIRMAN

APPROVED AS TO FORM:

Cassandria Jackson
LEWIS E. SHELLEY
CITY ATTORNEY

APPROVED AS TO FORM:

HERBERT W.A. THIELE
COUNTY ATTORNEY

ATTESTED BY:

JAMES O. COOKE, IV
CITY TREASURER-CLERK

ATTESTED BY:

Bob Inzer
CLERK OF THE COURT AND
COMPTROLLER
EXHIBIT A
DISPUTE RESOLUTION PROCEDURE

1.0 The parties shall attempt to resolve any disputes that arise under this Interlocal Agreement in good faith and in accordance with this Section. The provisions of the "Florida Governmental Conflict Resolution Act" shall not apply to disputes under this Interlocal Agreement as an alternative dispute resolution process is hereby provided. The aggrieved party shall give written notice to the other party setting forth the nature of the dispute, date of occurrence (if known), and proposed resolution, hereinafter referred to as the "Dispute Notice".

2.0 The appropriate City and County department heads shall meet at the earliest opportunity, but in any event within ten (10) days from the date the Dispute Notice is received, to discuss and resolve the dispute. If the dispute is resolved to the mutual satisfaction of both, the department heads shall report their decision, in writing, to the City Manager and the County Administrator.

3.0 If the department heads are unable to reconcile the dispute, they shall report their impasse to the City Manager and the County Administrator who shall then convene a meeting at their earliest opportunity, but in any event within twenty (20) days following receipt of the Dispute Notice, to attempt to reconcile the dispute.

4.0 If a dispute is not resolved by the foregoing steps within thirty (30) days after receipt of the Dispute Notice, unless such time is extended by mutual agreement of the parties, then either party may require the dispute to be submitted to mediation by delivering written notice thereof (the "Mediation Notice") to the other party. The mediator shall meet the qualifications set forth in Rule 10.100(d), Florida Rules for Mediators, and shall be selected by the parties within ten (10) days following receipt of the Mediation Notice. If agreement on a mediator cannot be reached in that ten (10) day period, then either party can request that a mediator be selected by an independent conflict resolution organization, and such selection shall be binding on the parties. The costs of the mediator shall be borne equally by the parties.

5.0 If an amicable resolution of a dispute has not been reached within sixty (60) calendar days following selection of the mediator, or by such later date as may be mutually agreed upon by the Parties, then, upon the agreement of both Parties, such dispute may be referred to binding arbitration; otherwise, each Party may pursue whatever remedies may be available at law, in equity, or otherwise. If the dispute is so referred, such arbitration shall be conducted in accordance with the Florida Arbitration Code (Chapter 682, Florida Statutes).

5.1 Such arbitration shall be initiated by delivery, from one party (the "Petitioner") to the other (the "Respondent"), of a written Arbitration Notice therefore containing a statement of the nature of the dispute and the amount, if any, involved. The Respondent, within ten (10) days following its receipt of such Arbitration Notice, shall deliver an answering statement to the Petitioner. After the delivery of such statements, either party may make new or different claims by providing the other with
written notice thereof specifying the nature of such claims and the amount, if any, involved.

5.2 Within ten (10) days following the delivery of such Arbitration Notice, each party shall select an arbitrator and shall deliver written notice of that selection to the other. If either party fails to select an arbitrator within such time, the other party may make application to the court for such appointment in accordance with the Florida Arbitration Code. Within ten (10) days following delivery of the last of such written notices, the two arbitrators so selected shall confer and shall select a third arbitrator.

5.3 The arbitration hearing shall be commenced in Leon County, Florida within sixty (60) days following selection of the third arbitrator. Except as may be specifically provided herein, the arbitration shall be conducted in accordance with Rules R-23 – R-48, of the Commercial Arbitration Rules of the American Arbitration Association.
LEON COUNTY
CITIZEN CHARTER REVIEW COMMITTEE
NOTES FOR AGENDA ITEM B
Citizen Charter Review Committee

Agenda Item B
January 18, 2018

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
Herb W.A. Thiele, County Attorney

Title: Consideration of Constitutional Officer Status

| Review and Approval: | Vincent S. Long, County Administrator  
|                      | Herb W.A. Thiele, County Attorney |
| Department/Division Review: | Alan Rosenzweig, Deputy County Administrator  
|                      | LaShawn Riggans, Deputy County Attorney |
| Lead Staff/Project Team: | Heather Peeples, Special Projects Coordinator  
|                      | Nicki Paden, Management Analyst |

Summary:
This item provides the Committee with additional information and analysis regarding changing the status of Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector from elected to appointed positions.

Staff Recommendation:
Option #4: Committee direction
Report and Discussion

Background:
On November 16, 2017 the Leon County Charter Review Committee passed a motion 12-0 requesting an agenda item related to preservation of Constitutional Officers as provided by the County Charter. Following staff’s presentation of the item on November 30, 2017 (Attachment #1), a motion requesting staff to prepare additional analysis related to the duties and the process of appointing of Constitutional Officers failed 2-10.

On January 11, 2018 the Committee voted 8-5 to request that staff to prepare additional information related to the duties and potential process of appointment for the Constitutional Offices of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

Analysis:
Across the nation, there is great disparity among county governments related to the election and appointments of County officers, known more commonly as “row officers.” The most commonly elected row offices include the Sheriff, Clerk, Assessor (i.e. Property Appraiser), and Treasurer; however, the variation of functions and titles of officers unique to some states make it difficult to equally compare. In addition, numerous County officers exist across the country which are unique to only one or two states. For instance, only two states (Florida and California) have elected elections supervisors. In summary, Attachment #2 contains a general list of row officers by state published by the National Association of Counties (NACo) in their most recent edition of “County Government Structure: A State by State Report.”

For Florida, Article VIII, Section 1 (d) of the Constitution states that there shall be five County Officers, “…except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.” The five constitutionally prescribed County officers, who perform a variety of constitutional and statutory duties and functions for the state and county, include the Clerk of Courts, Property Appraiser, Tax Collector, Supervisor Of Elections and Sheriff.

All of the 47 non-charter governments in Florida maintain the elected status and designation of duties of these offices as prescribed by the Constitution; however, the following overview reflects the variation among the 20 charter counties related to the method of selection and transfer of duties of these officers:

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.

Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.

Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

The Leon County’s Charter, as originally approved in 2002, includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections.

As noted, the Florida Constitution states that Charter Counties have the ability to eliminate the elected status of County Constitutional Officers by transferring the duties of the individual office to an appointed position. Attachment #3 provides an overview of the statutorily prescribed duties of the Supervisor of Elections, Clerk of the Circuit Court, Property Appraiser, and Tax Collector.

In Leon County, the appointed positions would be Department Directors reporting to the County Administrator. The process for appointing these new positions would be consistent with how the County currently recruits and hires for Department Directors. The County would establish the necessary skills, experience and education requirements for each of the positions. Hiring would be based on a competitive and open recruitment process. Appointments would be based on qualifications, skills, and ability to fulfill the statutory duties of the office.

However, any amendments to the County charter to alter the constitutional or statutorily prescribed functions or elected status of the constitutional officers may be later impacted by a proposal of the Florida Constitution Revision Commission (Attachment #4). The proposed amendment would mandate all constitutionally prescribed county officers to be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and prohibit counties from abolishing, transferring the duties of, or establishing any alternate method of selection for county constitutional officers. If approved by voters during the 2018 general election, charter counties that have made changes related to prescribed functions or elected status of the constitutional officers would be required to revise their charters to conform to the change before the 2020 general election.

Additionally, while there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.

**Options:**

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 25, 2018 meeting.

   *Voting Threshold: Simple Majority Vote*
2. Request additional information and analysis.  
   *Voting Threshold: Four (4) Votes*

3. Take no further action at this time.  
   *Voting Threshold: Simple Majority Vote*

4. Committee direction.

**Recommendation:**

Option #4: Committee direction.

**Attachment:**

1. November 30 Committee Agenda Item “Charter Provision Related to Constitutional Officers”
2. 2009 NACo Report, Row Officers by State
3. Requested Constitutional Officers Duties as Prescribed by Florida Statutes
4. Constitution Revision Commission Proposal #13
Citizen Charter Review Committee

Agenda Item C

November 30, 2017

To: 2017-2018 Leon County Citizen Charter Review Committee

From: Vincent S. Long, County Administrator
       Herb W.A. Thiele, County Attorney

Title: Charter Provision Related to Constitutional Officers

Review and Approval: Vincent S. Long, County Administrator
                        Herb W.A. Thiele, County Attorney

Department/Division Review: Alan Rosenzweig, Deputy County Administrator
                            LaShawn Riggans, Deputy County Attorney

Lead Staff/Project Team: Heather Peeples, Special Projects Coordinator
                        Nicki Paden, Management Analyst

Summary: To consider any changes the committee may wish to further explore related to the current Preservation of Constitutional Officers provision in the Leon County Charter.

Staff Recommendation:

Option #4: Committee direction
Report and Discussion

Background:
At the Leon County Charter Review Committee meeting of November 16, 2017, the committee passed a motion to request an agenda item related to potential changes to the Constitutional Officers which the Charter Committee may wish to consider.

All of the 47 non-charter governments and the majority of the 20 charter counties in Florida have five constitutional officers who perform a variety of constitutional and statutory duties and functions for the state and county. The five constitutional officers include the clerk of courts, property appraiser, tax collector, supervisor of elections and sheriff. Each of these constitutional officers administer their own office; however, each office obtains budgets and facilities from their respective Board of County Commissioners to perform their respective duties, including:

- Sheriff: Oversees law enforcement, public safety and often corrections for the county;
- Property Appraiser: assesses the fair value of all property so that property taxes can be computed;
- Tax Collector: receives property tax and other payments for both the county and state;
- Supervisor of Elections: registers voters and organizes all elections in the county; and
- Clerk of the Courts: maintains public records and is clerk to the county commission.

The Leon County’s Charter as originally approved in 2002 includes the Preservation of Constitutional Officers (Article III, Section 3.1), which makes no changes to the constitutional or statutorily prescribed functions or elected status of the constitutional officers, except the non-partisan election of the Supervisor of Elections. The 2009-2010 Citizen Charter Review Committee previously considered this issue, but chose not to recommend any changes to this provision of the County Charter.

Analysis:
Florida Charter Counties have the ability to abolish elected Constitutional Officers, as long as the duties of the individual office are provided for elsewhere. Article VIII, Section 1 (d) of the Florida Constitution states that there shall be five County Officers, “…except, when provided by county charter or special law approved by vote of the electors of the county, any county officer may be chosen in another manner therein specified, or any county office may be abolished when all the duties of the office prescribed by general law are transferred to another office.”

Of the Charter Counties in Florida (Attachment #1):

- 18 preserve the statutory functions of a separately elected Property Appraiser, Supervisor of Elections and Sheriff.
- Volusia County establishes the Property Appraiser, Supervisor of Elections and Sheriff as separately elected department directors transferring all the statutory duties to these offices (Elected Charter Officers).
- Broward and Volusia County transfer the functions of the Tax Collector to the County Administrator.
- Broward, Clay, Osceola, and Volusia County transfer the clerk and accountant functions of the Clerk of the Courts to the County Administrator.
• Orange County transfers the accountant function from the Clerk to a separately elected Comptroller.
• Miami-Dade has an elected Clerk of Courts and Property Appraiser and transferred the balance of the Constitutional Office powers to the elected Mayor.

In evaluating whether to propose any changes to the Constitutional Officers through a county charter, individuals in support of preserving the constitutional officers generally make the following arguments:

1. The Constitutional Officers’ duties are mandated by state law and those duties must be carried out no matter what form of government exists in the county.
2. Maintaining complete independence of those offices insures a system of “checks and balances.”
3. The independently elected status permits the offices to focus exclusively on the duties mandated by state law without the undue influence from the legislative body of the county. Because the people directly elect them, constitutional officials are more responsive to the electorate than are appointed officers.
4. The offices provide many services to other jurisdictions in addition to the county government and should therefore be independent of the county legislative body.

Individuals supporting revisions to the constitutional officers generally make the following arguments:

1. Changes to the Constitutional Officers through a county charter provides for a more efficient, uniform set of administrative support policies (budget, personnel, purchasing, etc.) to be implemented.
2. The entity imposing the taxes to fund a program should have ultimate control over the expenditure thereof.
3. Charter amendments provide the opportunity to prescribe additional professional qualifications for candidates seeking to run large, sophisticated operations.

If a charter amendment is considered, as noted in other Florida Charter Counties, there are two approaches to abolish an office and transfer its responsibilities to another office. One is to transfer the responsibility to an appointed position and the other is to transfer the duties to an elected charter officer. Note that all constitutional officers need not be treated in the same manner by the charter.

While there may be preferences or even efficiencies which may be possible to effectuate through a proposed charter amendment related to the Leon County Constitutional Officers, it should be noted that Leon County government enjoys a highly professional, very cooperative, and collaborative relationship with its constitutional officers.
Options:

1. Proceed to the next step in the proposed charter amendment process by requesting staff prepare proposed charter amendment language related to the status of elected Constitutional Officers for the January 18, 2018 meeting.
   *Voting Threshold: Simple Majority Vote*

2. Request additional information and analysis.
   *Voting Threshold: Four (4) Votes*

3. Take no further action at this time.
   *Voting Threshold: Simple Majority Vote*

4. Committee direction.

**Recommendation:**

Option #4: Committee direction.

**Attachment:**

1. Comparative Summary
Row Officer Overview

A discussion on this topic cannot be comprehensive because there are many variations of row officers representing infinite degrees of authority and contributions to local government operations. The following narrative and table are offered as a starting point to grasp what popularly elected officials exist throughout county government in each state. Input is encouraged to aid NACo in continued development of the data in this area. It is hoped that this summary will provide some insight into the historical elected offices that occupy the same tier as the central governing body in numerous county organization charts nationwide.

The traditional county distribution of power is characterized by a division of administrative responsibilities between the county governing board and separately elected offices. These separately elected offices are commonly known as “row offices” due to their appearance in a row on organizational chart or election ballots and the relative autonomy of each office from the central board.

This autonomy or independence is built on their legal status and accountability to the electorate. Row offices are most common in commission- and board-structured counties, but they are also found in other forms. In non-commission counties, row offices are usually fewer in number and may have less authority. In charter counties, row offices may be appointed by the board or elected executive.

Constitutional provisions for certain row offices are common. The position of sheriff is present in all but two states though not all are constitutionally required. Alaska and Hawaii (which have elected police chiefs) are the only states without sheriffs. Other offices frequently mandated by state constitutions include the county clerk, auditor, treasurer, and court clerk. Where possible, offices are designated in the table as “constitutional”.

County clerks are generally responsible for administrative support to the county board and many times for election administration details. In California there are appointed and elected registers of voters and in Florida there are election supervisors. An auditor is responsible for the accounting and auditing of county agencies and general fiscal affairs. A treasurer is specifically responsible for all county moneys and records on revenues as well as other fiscal matters related to general funds. A court clerk is responsible for: serving the county court system, including records maintenance, and may be responsible for one or more levels of court proceedings; collection and recording of fines, penalties, and court costs; and judicial correspondence. The position of court clerk is authorized in at least 27 states including Delaware and Pennsylvania where similar responsibilities are vested in positions titled prothonotary.

Many row offices are also established by state statutes with frequent examples including the positions of assessor, coroner, county attorney, prosecuting attorney, recorder, register of deeds, school superintendent, surveyor, and tax collector. These positions may be included in a state constitution, but are more commonly enacted through state laws.

The general responsibility of a prosecuting attorney is to prosecute suspected criminals in the name of the state. The county attorney acts as the attorney to the county governing board by providing legal opinions and representing the county in legal matters. Many states and individual counties have combined these roles into one elected county attorney position and it can be appointed in nine states. A minimum of 41 states have a prosecuting attorney and/or a county attorney including South Carolina, which calls the position “solicitor.”

The register of deeds and the recorder’s office represent similar functions involving the recording of all transfers of property and additional legal documents as deemed necessary. This function exists under either name in at least 28 states. The function may also be carried out by the county clerk in states where the register or recorder position does not exist or may be legally combined with the clerk, as in Montana and Idaho.

The position of coroner is responsible for determining the cause of death resulting from suspicious or violent circumstances. Twenty-one states authorize this position including Hawaii, which allows it to be combined with the position of police chief; Iowa, which allows an appointed or elected medical examiner; and Wisconsin, which utilizes medical examiners and coroners. The assessor position, noted in 26 states, is responsible for establishing property values subject to county property taxes and in many states the assessor is charged with collecting property taxes. A specific tax collector position is only designated in eight states including Georgia’s tax commissioners and Tennessee’s trustees. Finally, elected county school superintendents, historically common, are identified in 12 states with limited powers over school financial and program services. While historically very strong, the surveyor’s office now exists with limited duties and is noted in only 11 states.
There are numerous other row offices and variations on row offices which are unique to one or two states or lay minor roles in county government operations. For example, Michigan elects a drain commissioner, Kentucky elects county jailers, and Vermont elects commissioners of jail delivery and Minnesota appoints civil defense directors. Ohio elects county engineers, while four other states appoint them and Wisconsin allows a combined Engineer-Surveyor position. Three states utilize public administrators responsible for the management of estates and implementation of state probate laws while New Jersey counties have the position of surrogate to fulfill this need. The public administrator position is often combined with another office such as coroner and is usually appointed or elected at the discretion of the community. In addition, the offices may vary among counties within the same state. The list of unique offices could continue with many more details.

Below is a general list of the Row Officers by state and whether they are elected or appointed.

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<th>Register of Deeds</th>
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E = Elected      A = Appointed      D = Discretionary, Appointed or Elected
* = Constitutional  ** = See Row Office Overview
The Florida Constitution establishes the five County Offices to include the Supervisor of Elections, Property Appraiser, Tax Collector, Clerk of Courts and the Sheriff and prescribes their duties and functions to be provided in Florida Statutes. Per the Committee’s direction, the statutorily assigned duties and functions of the Supervisor of Elections, Property Appraiser, Tax Collector, and Clerk of Courts are summarized below. Additional information can be found via Florida Statutes or the County offices’ websites provided below.

**Supervisor of Elections**
The Supervisor Of Elections is the official custodian of the registration books and has the exclusive control of matters pertaining to the registration of voters, the conduct of local elections, the dissemination of election results, and the maintenance of election results. The Supervisor Of Elections must receive and preserve information, such as campaign treasurer reports, relevant to local candidates, political committees and political parties. Specific duties of the Supervisor of Elections include but are not limited to:

- Registering voters;
- Maintaining voter registration files;
- Conducting federal, state, and local elections;
- Administering the provisions of the campaign reporting laws; and
- Upholding the Elections Laws of the State of Florida.

Additional Information: [https://www.leonvotes.org/General-Information/About-Us](https://www.leonvotes.org/General-Information/About-Us)

**Tax Collector**
The Leon County Tax Collector’s Office informs the public of tax obligations and available services, collects authorized taxes and fees from people and businesses in a fair and professional manner, and efficiently distributes the proceeds in accordance with law to the taxing authorities. Specific duties of the Tax Collector include but are not limited to:

- Collection of Ad Valorem, Non-Ad Valorem, sales, and tourist development taxes;
- Issuance of Motor vehicle and vessel registration and title applications; and
- Issuance of hunting and fishing licenses, driver licenses, and birth certificates.

Additional Information: [http://www.leontaxcollector.net/mission.html](http://www.leontaxcollector.net/mission.html)

**Property Appraiser**
The Property Appraiser has the legal responsibility to provide a uniform assessment of property within the County to determine valuations for ad valorem tax purposes. Specific duties of the Property Appraiser include but are not limited to:

- Locating, identifying and appraising all property subject to ad valorem taxes;
- Producing and maintaining an equitable tax roll; and
- Administering all property tax exemptions in accordance with Florida Statutes and the Rules and Regulations of the Florida Department of Revenue.

Additional Information: [http://www.leonpa.org/_dnn/](http://www.leonpa.org/_dnn/)

**Clerk of Court**
The Clerk of Court County is a complex organization that performs a wide range of record keeping, information and financial management for citizens, the judicial system, and the Board of County Commissioner. Specific duties of the Clerk of Court include but are not limited to:

- Duties as the Clerk of Circuit and County Court such as collecting fines and fees and maintaining the court registry;
- Duties as the Recorder of Deeds such as processing applications and sales for deeds and maintaining a public records library;
- Duties as the Clerk to the Board of County Commissioners such as producing official meeting minutes and maintaining record of all county resolutions, ordinances, and contracts;
- Duties as the Accountant and Custodian of County Funds such as processing accounts payable and payroll of the County;
- Duties as the County Auditor review of contracts prior to adoption and conducting pre/post- financial audits; and
- Additional duties including processing marriage licenses, passport applications, and home solicitation permits.

I. **SUMMARY:**

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county. Additionally, the proposal will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers. The proposal would take effect January 5, 2021, but would govern the elections for county constitutional officers for the 2020 election cycle.

The 1885 Florida Constitution initially provided that county constitutional officers are to be elected and that their duties be established in Florida statute. However, through amendments, in particular the enshrinement of home rule authority in the 1968 Florida Constitution, with the authorization of county charters, the method of selection and duties of some county constitutional officers in some counties changed. The proposal revises sections 1 and 6 of Article VIII to return to having all constitutionally prescribed county officers elected by voters of that county.

II. **SUBSTANTIVE ANALYSIS:**

A. **PRESENT SITUATION:**

The Florida Constitution calls for the state to be divided into political subdivisions called counties. Specifically, Article VIII of the Florida Constitution provides for two types of counties: charter counties and non-charter counties.
Non-Charter Counties

If a county does not operate under a charter, the county has only such power of self-government as is provided by general or special law. If the Legislature has authorized a non-charter county to govern a particular area, the board of county commissioners may enact county ordinances not inconsistent with general or special law. Currently, there are 47 non-charter counties in Florida.

Charter Counties

Pursuant to either general or special law, a county charter may be adopted, amended, or repealed by approval of the electors of the county in a special election. If a county operates under a charter, the county has all powers of local self-government not inconsistent with general law, or with special law approved by vote of the electors. Therefore, even if the Legislature has not specifically authorized a charter county to govern a particular area, the Florida Constitution grants the board of county commissioners broad authority to enact county ordinances not inconsistent with general law. Currently, there are 20 charter counties in Florida.

County Officers under the Florida Constitution

The Florida Constitution creates five specific county officers: Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court (collectively, the five constitutional offices/officers). The Clerk of the Circuit Court also serves as the ex officio clerk of the board of county commissioners, auditor, recorder, and custodian of county funds. Each officer is elected separately by the voters of the county for terms of four years. These officers have prescribed duties provided for in general law.

All non-charter counties have the five constitutional officers with statutorily prescribed duties. Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred the powers to another county office.

The five constitutional offices may only be altered pursuant to authority prescribed by the terms of a county charter. Specifically, Article VIII, Section 1(d) authorizes a county charter to abolish one or all of the constitutional county offices; transfer the powers to another department of the county government; or provide for a different manner of selecting a county officer. Further, Article VIII, Section 1(d) authorizes a county charter to transfer the Clerk of the Circuit Court’s duties as ex officio clerk of the board of county commissioners, auditor, recorder and custodian of all county funds to another department of county government.

Eight charter counties have changed the manner of selection of at least one of the five constitutional officers or restructured or abolished at least one of the five constitutional offices and transferred their duties to another county office. The eight counties that have altered the duties of a constitutional officer, or have abolished the office and reassigned
duties through their charter are: Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

**Brevard County**

Brevard County “expressly preserved” the offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of the Circuit Court as departments of county government, rather than constitutional offices. The county reiterated the ability to transfer or add to the powers of each of the county officers. The county has transferred the powers of the Clerk of Circuit Court as auditor, and custodian of county funds to the county manager. Each officer remains elected for a four year term.

**Miami-Dade County**

Miami-Dade County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser, transferred these powers to the mayor, and granted the mayor the discretion to sub-delegate the powers. The duties of the Sheriff were transferred to the police department, the director of which is appointed by the mayor. The duties of the tax collector were transferred to the department of finance, the director of which is jointly appointed by the mayor and the clerk of court. The county Property Appraiser, although not retained as a constitutional office, remains an elected position. The duties of the Supervisor of Elections were transferred to the elections department, the director of which is appointed by the mayor. The Clerk of the Circuit Court remains a constitutional, elected officer with some changes in duties. Although the clerk is still the clerk of the county commission, the clerk’s financial recorder and custodian duties were transferred to the department of financial services, and the clerk’s auditing duties were transferred to the commission auditor.

**Volusia County**

Volusia County established its charter by special law in 1970, and the voters of Volusia County subsequently approved it in a special countywide election the same year. Volusia County abolished the constitutional offices of the Sheriff, Tax Collector, Supervisor of Elections, and Property Appraiser. The county transferred these offices’ powers to new charter offices. The duties of the Sheriff were transferred to and divided between the department of public safety and the department of corrections. The duties of the Tax Collector were transferred to the department of finance. The duties of the Property Appraiser were transferred to the department of property appraisal. The duties of the Supervisor of Elections were transferred to the department of elections. The Sheriff, Property Appraiser, and Supervisor of Elections are elected directors of their respective offices. The Tax Collector is appointed by the county manager and confirmed by the county council. The Clerk of the Circuit Court remains a constitutionally elected officer except that the clerk’s constitutional duties as clerk of the county commission were transferred to and divided between the department of central services and the department of finance.
Broward County

Broward County has not altered the constitutionally elected offices and duties of the Sheriff, Property Appraiser, and Supervisor of Elections. However, the office of the Tax Collector was abolished and the duties were transferred to the department of finance and administrative services, headed by the finance and administrative services director appointed by the county administrator. Though the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the county commission were transferred to the county administrator.

Clay County

Clay County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. Although the Clerk of the Circuit Court also retains the status of constitutional officer, the clerk’s constitutional duties as clerk of the county commission, auditor, and custodian of county funds were transferred to the county administrator.

Duval County

Duval County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer but the clerk’s duties as clerk of the county commission were transferred to the council secretary and the constitutional duties as auditor were transferred to the council auditor.

Orange County

In 2016, Orange County abolished the constitutionally elected offices of the Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, Clerk of the Circuit Court as well as the county Comptroller and reinstated the offices as elected officials that report directly to the county commission. The 2016 charter amendments provide, however, that each new charter office shall have all rights and privileges of the corresponding constitutional offices. Two separate lawsuits are pending as to whether the county can make constitutional officers term limited and subject to non-partisan elections through their county charter provisions.

Osceola County

Osceola County has not altered the constitutionally elected offices and duties of the Sheriff, Tax Collector, Property Appraiser, and Supervisor of Elections. The Clerk of the Circuit Court retains the status of constitutional officer, but the clerk’s duties as clerk of the county commission, auditor, and custodian of funds were transferred to the county manager.
B. **EFFECT OF PROPOSED CHANGES:**

The proposal revises sections 1 and 6 of Article VIII of the Florida Constitution to mandate that all constitutionally prescribed county officers (Sheriff, Tax Collector, Property Appraiser, Supervisor of Elections, and Clerk of Circuit Court) be elected by the electors of that county, as was originally prescribed prior to the authorization of county charters, and will not allow the county to abolish, transfer the duties of, or establish any alternate method of selection for county constitutional officers.

If adopted by the Constitution Revision Commission, the proposed amendment will be submitted to Florida’s electors for approval or rejection at the next general election (November 6, 2018). If approved by the voters, the amendment takes effect on January 5, 2021. As a result, affected charter counties will have around 18 months to revise their charters and ordinances to conform to this amendment for the 2020 general elections.

If adopted, the proposal would have no impact on non-charter counties and those charter counties that retained the constitutional offices without any changes to its selection or authority.

From the 2020 general election cycle forward, all county, whether charter or non-charter, constitutional officers must be elected with fixed four year terms, and their offices cannot be abolished, or their duties transferred to another office or officer.

If approved during the 2018 general election, the following counties will be required to revise their charter to conform to the change before the 2020 general election; Brevard, Broward, Clay, Duval, Miami-Dade, Orange, Osceola, and Volusia.

C. **FISCAL IMPACT:**

The fiscal impact is indeterminate. The impact will be confined to the charter counties who have altered their constitutional officers. The proposal would require the affected counties to expend funds to (a) provide for election of appointed constitutional officers, and (b) reorganize their governments to accommodate the officer’s office and responsibilities. The effect will be heavily dependent on the reorganization efforts at the county level and could vary greatly by county.

III. **Additional Information:**

A. **Statement of Changes:**

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. **Amendments:**

None.
C. Technical Deficiencies:

   Line 44 “Notwithstanding subsection 6(e)…” The word “notwithstanding” may create ambiguity; therefore, “notwithstanding” is construed to communicate that this amendment supersedes subsection 6(e).

D. Related Issues:

   None.
V.

ADJOURNMENT