

**Leon County
Board of County Commissioners**

Notes for Agenda Item #14

Leon County Board of County Commissioners

Agenda Item #14

April 14, 2026

To: Honorable Chairman and Members of the Board

From: Vincent S. Long, County Administrator
Chasity H. O'Steen, County Attorney

Title: Request to Schedule the First and Only Public Hearing to Consider a Board-Initiated Charter Amendment to Provide for County Ordinances to Supersede City Ordinances

Review and Approval:	Vincent S. Long, County Administrator Chasity H. O'Steen, County Attorney
Department / Division Review:	Ken Morris, Assistant County Administrator
Lead Staff / Project Team:	Nicki Hatch, Assistant to the County Administrator for Legislative and Strategic Initiatives

Statement of Issue:

This item seeks Board authorization to schedule the first and only public hearing on May 12, 2026, to consider placing a Board-initiated Charter Amendment on the November 3, 2026, General Election ballot, providing for County ordinances to supersede City ordinances to the extent permitted by law.

Fiscal Impact:

This item has no fiscal impact.

Staff Recommendation:

Option #1: Schedule the first and only public hearing to consider a Board-initiated Charter Amendment (Attachment #1) to provide for County ordinances to prevail over City ordinances in the event of conflict, to the extent permitted by law, for May 12, 2026, at 6:00 p.m.

Report and Discussion

Background:

This item seeks Board authorization to schedule the first and only public hearing on May 12, 2026, to consider placing a Board-initiated Charter Amendment on the November 3, 2026, General Election ballot, providing for County ordinances to supersede City ordinances within the City limits to the extent allowed by general law (Attachment #1). The proposed Board-initiated Charter Amendment provides County ordinances adopted after January 1, 2027 shall supersede municipal ordinances, to the extent permitted by law, should a conflict exist within the municipal boundaries.

On September 23, 2025, the Board considered several policy issues to advance to the Citizen's Charter Review Committee (CCRC) to evaluate for potential amendments to the County Charter. The CCRC was not limited in its purview and had full discretion to review any and all relevant issues; however, the Board selected one issue for the CCRC to consider for advancement as a proposed charter amendment - whether the Leon County Charter should provide for County ordinances to prevail over City ordinances in the event of conflict.

To support its consideration, the CCRC received analysis on the County's existing regulatory authority and examples of existing conflicts where County and City ordinances conflict or diverge based on jurisdiction. Among examples provided to the CCRC were the County's and City's differing street renaming ordinances, restrictions on the retail sales of animals, hours of sale for alcohol, and public notice requirements for new developments in neighboring areas. The examples presented to the CCRC do not reflect an exhaustive review of all regulatory conflicts as there are instances where discrepancies may exist but have not raised regulatory or administrative conflicts, and such discrepancies can change over time as County and City regulations are revised; current conflicts for certain matters that exist today may not exist in the future (and vice versa). Following deliberations, the CCRC ultimately did not support advancing a charter amendment providing for County ordinances to prevail over City ordinances.

On March 10, 2026, the Board received an update on the CCRC's deliberations and directed staff to draft a Board-initiated Charter Amendment providing for County ordinances to prevail over City ordinances in the event of conflict, to the extent permitted by law. At that time, the Board requested information regarding the potential impacts on existing County and City ordinances if the electors approved a proposed charter amendment wherein County ordinances prevail over City ordinances in the event of a conflict. This item provides a draft Ordinance for the Board's consideration to place the proposed Charter Amendment on the ballot and provides information regarding the process and limitations County ordinances to prevail over City ordinances in the event of a conflict (Attachment #1).

Analysis:

As a charter county, Leon County's authority is derived from Article VIII, Section 1(g) of the Florida Constitution (Constitution) titled "CHARTER GOVERNMENT.":

"Counties operating under county charters shall have all powers of local self-government not inconsistent with general or special law, or with special law approved by vote of the electors. The governing body of a county operating under a charter may enact county ordinances not inconsistent with general law. The charter shall provide which shall prevail in the event of conflict between county and municipal ordinances."

In accordance with the Constitution, Section 1.6 of the Charter, “Relation to Municipal Ordinances”, currently provides that municipal ordinances shall prevail over County ordinances in the event of any conflict within the boundaries of the municipality, except as otherwise provided by law or the Charter. Furthermore, to the extent that a county and municipal ordinance cover the same subject without conflict, then both ordinances shall be effective and supplemental to the other. This section from the original County Charter remained unchanged until 2010.

During the 2009-2010 Citizen Charter Review process, the CCRC advanced a charter amendment to establish countywide minimum environmental regulations which was approved by voters during the 2010 General Election. This was an important issue for the community at that time to address rapid development and apply one set of consistent rules for environmental protection, especially for projects that crossed political jurisdiction boundaries or sought to annex property into the City of Tallahassee (City) for the purpose of avoiding more stringent environmental regulations. Accordingly, Section 1.6.(2) of the Charter provides for the establishment of minimum environmental standards by County ordinances to be effective within unincorporated and incorporated areas of the County. While this provision effectively supersedes municipal ordinances that do not meet the minimum environmental standards established by County ordinance, Section 1.6.(2) of the Charter allows municipalities to establish more stringent environmental protections within the City.

While the County has broad powers under Article VIII, Section 1(g) of the Constitution, Section 2(b) of Article VIII of the Constitution also provides broad authority to municipalities, as follows:

“Municipalities shall have governmental, corporate and proprietary powers to enable them to conduct municipal government, perform municipal functions and render municipal services, and may exercise any power for municipal purposes except as otherwise provided by law.”

Municipal authority as set forth under the Constitution, however, is not applicable to any subject expressly preempted to state or county government by the Constitution or by general law. Similarly, municipal authority may be limited when a subject or specific policy area is preempted by a county charter.

Comparative Review of Charter Counties

Among the 18 comparable charter counties in Florida, Leon County is among the majority (11) which provide for county ordinances to prevail in specific circumstances or subject areas. Those 11 charter counties are: Alachua, Broward, Charlotte, Columbia, Leon, Orange, Palm Beach, Pinellas, Sarasota, Seminole, and Volusia. Examples from other county charters that provide for county ordinances to prevail over municipal ordinances in specific circumstances include the regulation of adult entertainment, alcohol sales, and elements of the comprehensive plan.

For Leon County, the establishment of minimum environmental standards is the only subject area whereby a County ordinance prevails over a City ordinance at this time. This was an important issue in 2010 due to rapid development taking place in our community. Voter approval of this amendment to the Charter unified environmental regulations countywide based on environmental features such as water basins and drainage, chronic flooding conditions, and the topography of our

community rather than political jurisdiction boundaries. It also reduced the complexity of having two different sets of environmental standards and the various interpretations of those standards.

Comparatively, seven charter counties provide for municipal ordinances to prevail in the event of any conflict without exception. Those seven charter counties are: Brevard, Clay, Hillsborough, Lee, Osceola, Polk, and Wakulla. As previously stated, most charter counties provide for county ordinances to prevail in specific circumstances. None provide for county ordinances to broadly prevail without exception.

Preemption v. Conflict

The United States has a complex legal system, with laws, rules, and regulations enacted at the federal, state, and local levels. Preemption occurs when a higher authority of law displaces the law enacted by a lower authority of law. This occurs when the higher authority is so comprehensive or intends to occupy a field of regulation such that the lower authority cannot regulate in that area. By way of example, in Florida the state has preempted the field of regulation for guns in almost all respects.

By contrast, conflicts occur in situations where there is overlapping jurisdiction and multiple jurisdictions enact laws regarding the same subject matter that make it impossible to comply with both, either in whole or part. Courts try to interpret two conflicting laws in harmony and interpret them in a way that allows both laws to remain in effect when possible. Only when a conflict is direct and it is impossible to harmonize the two laws will one of the laws be deemed to prevail over the other to the extent of the conflict.

In the municipal and county charter context, Article VIII, Section 1(g) of the Constitution ensures that a county charter is the mechanism to establish whether a county ordinance or a municipal ordinance prevails within the municipal limits in the event of a conflict and to the extent otherwise permitted by law. As previously stated, the Leon County Charter provides that City ordinances prevail over County ordinances within the City limits when provisions of a City ordinance and County ordinance conflict, with the exception of minimum environmental standards established by County ordinance.

Potential Impacts of a Charter Amendment Related to Existing County and City Ordinances

Should the Board advance a proposed Board-initiated Charter Amendment to provide for County ordinances to prevail over City ordinances in the event of a conflict to the extent permitted by law, and the amendment is approved by the electorate, all City ordinances would not automatically be preempted by County ordinances. As written, the proposed Charter Amendment provides for prospective County ordinances adopted after January 1, 2027, to supersede municipal ordinances to the extent of any conflict within the municipal boundaries. This allows the Board to carefully consider which, if any, individual regulatory areas the County wishes for its ordinances to prevail over City ordinances that are in conflict on a case-by-case basis.

Numerous provisions in the Leon County Code are currently written to apply exclusively to the unincorporated area and, therefore, do not conflict with differing regulatory standards set forth under the City's jurisdiction. Select examples include:

- Article II of Chapter 4 of the Code governing Animal Control only applies in the unincorporated areas unless the County and City execute an interlocal agreement. See Sec.4-28.
- The “Manufactured Housing Regulation” in Division 5 of Chapter 5, Article II of the Code, applies only to manufactured homes in the unincorporated areas.
- Numerous provisions of the Land Development Code (Chapter 10), including Article VII governing Subdivision and Site and Development Plan Regulations and Article IX, Division 6, Sec. 10-9.604 governing the maximum number of billboards allowed, only apply in the unincorporated areas.
- Chapter 13 on Parks and Recreation provide for the general operations and uses specific to County-maintained parks.

The proposed Charter Amendment would also allow the Board to choose not to exercise its regulatory authority within the municipal limits on a case-by-case basis. Additionally, there are regulatory matters in which the County is preempted by the state, such as voting in elections and involuntary annexations, and other matters in which the City has regulatory authority to provide services under state law that the County could not preempt. Furthermore, there are instances where the City and County have entered into interlocal agreements which may prohibit the County from adopting ordinances that contradict or otherwise deviate from terms and conditions in those contracts, including utility franchise and rate agreements.

The City of Tallahassee has authority to provide municipal services under state law which cannot be preempted by County Charter. The County’s authority to exercise regulatory authority under Article VIII, Section 1(g) of the Constitution does not include the ability to transfer municipal services to the County or regulate municipal services by adopting a County ordinance. A “transfer of powers” is separately governed by the process set forth in Article VIII, Section 4 of the Constitution, which provides a generalized structure under which powers or functions may be transferred between local governments, including counties and municipalities. Specifically, any function or power of a municipality to be transferred to a county (or vice versa) must first be authorized by law or by resolutions adopted by the affected governing bodies, followed by approval from the electors of both affected governments through a dual referendum. A “dual referendum” requires the residents of the city and the unincorporated area to separately approve the referendum. The City’s ownership, administration, and regulation of its utility is one example where a transfer of powers would be required for the County to exercise control over such functions.

Proposed Charter Amendment and Ballot Language

A Board-initiated Charter Amendment requires adoption of an ordinance at a public hearing to place the Charter Amendment on the ballot. Attachment #1 provides the draft ordinance and proposed Charter Amendment with ballot language providing for County ordinances to prevail over City ordinances to the extent otherwise permitted by law. For any ballot amendment, Florida Statutes limits the ballot title to 15 words and the ballot language to 75 words. Upon approval by a simple majority vote of the Board, a public hearing would be scheduled on May 12, 2026, for the Board to take public input and formally consider the proposed Charter Amendment. An affirmative vote of a majority plus one of the Board would be needed at the public hearing to place the Board-initiated Charter Amendment on the November 3, 2026, General Election ballot.

Title: Request to Schedule the First and Only Public Hearing to Consider a Board-Initiated Charter Amendment to Provide for County Ordinances to Supersede City Ordinances

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Options:

1. Schedule the first and only public hearing to consider a Board-initiated Charter Amendment (Attachment #1) to provide for County ordinances to prevail over City ordinances in the event of conflict, to the extent permitted by law, for May 12, 2026, at 6:00 p.m.
2. Do not schedule the first and only public hearing to consider a Board-initiated Charter Amendment to provide for County ordinances to prevail over City ordinances in the event of conflict, to the extent permitted by law.
3. Board direction.

Recommendation:

Option #1

Attachment:

1. Draft Ordinance and Proposed Charter Amendment with Ballot Language providing for County Ordinances to Prevail Over City Ordinances in the Event of Conflict, to the Extent Permitted by Law.

LEON COUNTY ORDINANCE NO. 26-

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, AMENDING THE HOME RULE CHARTER OF LEON COUNTY, FLORIDA; AMENDING SECTION 1.6, ENTITLED “RELATION TO MUNICIPAL ORDINANCES”; PROVIDING FOR A BALLOT QUESTION TO BE POSED TO THE LEON COUNTY ELECTORATE AT THE GENERAL ELECTION ON NOVEMBER 3, 2026; PROVIDING FOR THE BALLOT QUESTION FORM; PROVIDING FOR FURTHER AUTHORIZATION; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

RECITALS

WHEREAS, the Board of County Commissioners desires to enact an ordinance amending Article I, Section 1.6 of the Home Rule Charter of Leon County, Florida, relating to Relation to Municipal Ordinances; and

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LEON COUNTY, FLORIDA, that:

Section 1. Amendment to Charter.

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

- (1) Except as otherwise provided by law or this Charter, County ordinances adopted after January 1, 2027 shall supersede 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

1 Board of County Commissioners determines to be necessary for the protection of the
2 public health, safety, and welfare of the citizens throughout Leon County. Standards shall
3 be designed to place emphasis on supporting healthy natural systems occurring in the
4 environment. However, nothing contained herein shall prohibit a municipality from
5 adopting ordinances, standards, procedures, requirements or regulations establishing a
6 more stringent level of environmental protection within the incorporated area of the
7 County.
8

9 **Section 2. Ballot Question to be Presented to Electorate.**

10 The proposed amendment to the Home Rule Charter of Leon County, Florida, shall be presented
11 to the qualified Leon County electorate by placing the question of whether to adopt the same on the
12 ballot at the general election to be held on November 3, 2026.
13

14 **Section 3. Ballot Question Form.**

15 The question on the ballot shall be substantially in the following form:
16

17 **COUNTY ORDINANCES TO SUPERSEDE MUNICIPAL**
18 **ORDINANCES AS PROPOSED BY THE BOARD OF COUNTY**
19 **COMMISSIONERS**
20

21 Question
22

23 Shall the Leon County Charter be amended to provide that County
24 ordinances adopted after January 1, 2027 shall supersede conflicting
25 municipal ordinances, to the extent permitted by law, so that the County
26 may establish uniform countywide regulations and standards on matters
27 affecting residents in both incorporated and unincorporated areas?
28

29 Yes for Approval _____
30

31 No for Rejection _____
32

33 **Section 4. Further Authorization.**

34 The Board of County Commissioners of Leon County, Florida, is authorized to adopt all resolutions
35 and take all actions necessary in order for this Charter Amendment referendum to be properly placed
36 on the ballot for the general election of November 3, 2026. Said referendum shall be conducted
37 according to the requirements of law governing referendum elections in the State of Florida.
38
39

1 **Section 5. Severability.**

2 If any word, phrase, clause, section, or portion of this ordinance is declared by any court of
3 competent jurisdiction to be void, unconstitutional, or unenforceable, then all remaining provisions and
4 portions of this ordinance shall remain in full force and effect.
5

6 **Section 6. Effective Date.**

7 This ordinance shall take effect upon being filed with the Florida Department of State, but shall
8 be of no further force or effect if the proposed Charter Amendment is not duly approved at the
9 November 3, 2026, General Election. The amendment to the Home Rule Charter of Leon County,
10 Florida, as proposed by this Ordinance, shall become effective January 1, 2027, if the Charter
11 Amendment is approved by a “yes” vote by a majority of those duly qualified electors voting on the
12 question posed at the November 3, 2026, referendum.
13

14 DONE, ADOPTED AND PASSED by the Board of County Commissioners of Leon County,
15 Florida, this _____ day of _____, 20____.

16
17 LEON COUNTY, FLORIDA

18
19
20 By: _____

21 Christian Caban, Chairman
22 Board of County Commissioners
23

24 ATTESTED BY:

25 Gwen Knight, Clerk of Court
26 & Comptroller, Leon County, Florida
27

28
29 By: _____
30

31
32 APPROVED AS TO FORM:

33 Chasity H. O’Steen, County Attorney
34 Leon County Attorney’s Office
35

36
37 By: _____