

ORDINANCE NO. 2011-\_\_\_

AN ORDINANCE PERTAINING TO THE CHARTER FOR ORANGE COUNTY FLORIDA; AMENDING SECTION 704 OF THE ORANGE COUNTY CHARTER TO PROVIDE THAT COUNTY ORDINANCES SHALL BE EFFECTIVE WITHIN MUNICIPALITIES AND PREVAIL OVER MUNICIPAL ORDINANCES WHEN THE COUNTY SETS STRICTER MINIMUM STANDARDS FOR PROHIBITING OR REGULATING SIMULATED GAMBLING OR GAMBLING; PROVIDING FOR A REFERENDUM ON THE CHARTER AMENDMENT; CONDITIONING THE EFFECTIVENESS OF THE CHARTER AMENDMENT ON VOTER APPROVAL AT THE REFERENDUM; PROVIDING FOR OTHER RELATED MATTERS; AND PROVIDING EFFECTIVE DATES.

BE IT ORDAINED by the Board of County Commissioners of Orange County:

*Section 1. Amendment to Section 704 of Orange County Charter.* Section 704 of the Orange County Charter is amended to read as follows, with added wording being shown by the underlines and deleted wording being shown by the strike-throughs:

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

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

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

1. The county sets minimum standards for (a) regulating adult entertainment, and (b) protecting the environment by prohibiting or regulating air or water pollution, and (c) prohibiting or regulating simulated gambling or gambling, but only to the extent that such minimum standards are stricter than the applicable municipal standards.

2. The county ordinances provide that the county's and any municipality's rezonings or comprehensive-plan

42 amendments (or both) that increase residential density are effective  
44 only upon approval by the governing boards of all significantly  
affected local governments when:

46 (a) The attendance zone for any public  
school to be affected by the increase in residential density lies only  
partly inside a municipality; and

48 (b) The school district cannot certify to  
50 the governing boards of all significantly affected local governments  
that the school, the attendance zone for which straddles a municipal  
52 boundary, can accommodate the additional students that will result  
from the increase in residential density.

54 The ordinance shall provide that the above-described rezonings and  
comprehensive-plan amendments take effect only upon approval of  
56 each significantly affected local government, whether the county or  
any municipality therein. The ordinance may include exceptions for  
58 *de minimis* impacts to the affected school(s) and such terms,  
requirements, limitations, exceptions, and other provisions that may  
60 be necessary or useful to protect property rights, comply with  
applicable law, and carry out the intent and purposes of this  
subsection.

62 Should a court of competent jurisdiction hold, after all appeals, that  
the ordinance does not afford the municipalities the same  
64 opportunity as the county to approve or deny the aforementioned  
comprehensive-plan amendments and rezonings when they are  
66 significantly affected local governments, the ordinance shall  
terminate and be of no further force and effect. This paragraph 2  
68 shall be offered to the electors for re-approval at referendum at the  
General Election in 2012. If not re-approved by the electors, this  
70 paragraph 2 and the corresponding reference in subsection C shall  
stand repealed as of January 1, 2013.

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

82 **Section 2. Referendum.** The Orange County Supervisor of Elections is authorized

84 and directed to place on the ballot for the election to be held on **November 6, 2012**, the following



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**ADOPTED THIS \_\_\_ DAY OF \_\_\_\_\_, 2011.**

**ORANGE COUNTY, FLORIDA**  
By: Board of County Commissioners

By: \_\_\_\_\_  
Teresa Jacobs, County Mayor

**ATTEST:** Martha O. Haynie, County Comptroller  
As Clerk of the Board of County Commissioners

By: \_\_\_\_\_  
Deputy Clerk