



**Hillsborough
County** Florida

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Home Rule Charter

Approved by Hillsborough County Voters
September 1983

Amended by Hillsborough County Voters
November 2002, 2004, 2012, and 2018

HCFLGov.NET

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Charter-At-A-Glance

- Responsibilities of the executive branch (County Administrator) and legislative branch (County Commission) are specified, and neither branch is to exercise powers pertaining to the other branch.
- There are seven members of the County Commission; four are from single-member districts, and three are elected countywide. Every elector of the County may vote for a majority of the commissioners: the commissioner representing the elector's district, and the three commissioners elected at large.
- Terms of County Commissioners are staggered.
- The Charter does not affect any court, any constitutional office, district school board or any municipality.
- Special laws enacted by the Florida Legislature may be effective in Hillsborough County without approval by the County electors if they relate to: civil service, aviation, the port, sports, transportation, hospitals, planning, environment, solid waste management, consumer affairs, resource recovery, criminal justice, historic preservation, and the arts.
- There are provisions for recall of elected officials.
- There is a provision for a Charter Review Board to be appointed by the County Commission two years after the implementation and every five years thereafter. The Charter Review Board is empowered to conduct a study of County government and propose amendments to the charter.
- Amendments also may be proposed by the County Commission by ordinance adopted by five commissioners, or by initiative.
- No amendment may be effective unless it is approved by a majority vote of the electors of the County.

Preamble

We, the people of Hillsborough County, Florida, in order to attain greater local self-determination, to exercise more control over our own destiny, to create a more responsible and effective government, and to guarantee equal civil and political rights to all, do avail ourselves of the opportunity afforded by the Florida Constitution to become a chartered county and do hereby ordain and establish by this Home Rule Charter a new form of government of and for Hillsborough County.

I. Creation

Section 1.01 Chartered County.

The county government for Hillsborough County shall be that of a chartered county under Section I, Article VIII of the Florida Constitution pursuant to which this Charter is adopted. Its boundaries are as provided by law. This is not a charter for consolidation of county and municipal governments in Hillsborough County, but solely a charter for the county government, and it is the intent of the people that it be so interpreted.

Section 1.02 Extent.

As used in this Charter, the term “the county government” means the government of Hillsborough County, but such term does not include and this Charter does not affect any court; any constitutional officer, as defined in Section I(d) of Article VIII, Florida Constitution: clerk of the circuit court, property appraiser, tax collector, sheriff or supervisor of elections; district school board; any municipality, whether created or enlarged before or after the adoption of this Charter; or any governmental body which has jurisdiction extending beyond the boundaries of Hillsborough County, and the relationship of the county government to them shall be the same as it would have been if this Charter had not been adopted.

II. Powers

Section 2.01. Powers.

The county government shall have all powers of local self government not inconsistent with general law; special law approved by the vote of the electors of Hillsborough County; special law relating to civil service, aviation, the port, sports, transportation, hospitals, planning, environment, solid waste management, consumer affairs, resource recovery, criminal justice, historic preservation, and the arts, which laws may be effective as to Hillsborough County without approval by vote of the electors; or this Charter.

III. Separation of Powers.

Section 3.01. Separation of Legislative and Executive Powers.

The power of the county government shall be divided between legislative and executive branches. No person belonging to one branch shall exercise any powers appertaining to the other branch unless expressly provided herein.

IV. Legislative Branch

Section 4.01.

All legislative responsibilities and powers of local self-government of the county not inconsistent with this Charter shall be assigned to and vested in the board of county commissioners.

Section 4.02. Board of County Commissioners.

The board of county commissioners shall consist of seven commissioners, each of whom shall be elected from one of seven districts and each of whom shall be entitled to have other employment which does not prevent the member from having the time to discharge the duties of a commissioner. Prior to voting on any matter of county business, any commissioner having a conflict of interest shall declare that conflict to the board.

Section 4.03. Districts.

The territory of three districts shall embrace the entire territory of the county and be designated as districts 5, 6 and 7 respectively. The territory of four districts shall be established by dividing all of the county into four separate areas, designated as districts 1 through 4 respectively, as nearly equal in population as practicable.

Section 4.04. Residency Requirement and Limit on Terms.

Each candidate for a seat on the board of county commissioners shall be a citizen of the United States of America, a registered voter of the district for which the candidate qualifies, and a resident of Hillsborough County. No person who has, or but for resignation could have, served as a commission member from districts 1 through 4 for more than six years in two consecutive terms shall be elected as commission member from districts 1 through 4 for the next succeeding term, and no person who has, or but for resignation would have, served as a commission member from districts 5 through 7 for more than six years in two consecutive terms shall be elected as commission member from districts 5 through 7 for the next succeeding term.

Section 4.05. Election and Term of Office.

Except as provided herein, all elections for the board of county commissioners shall be as provided for county commissioners in non-charter counties. Each commissioner shall be elected by the electors residing in the district for which the commissioner qualifies. Each commissioner shall be elected for a term of four years, except as provided for initial commissioners in the transition article and

except that, in order to reflect population shifts between decennial censuses as quickly as possible, in 1990 and every ten years thereafter the commissioners to be elected from districts 1 and 3 shall be elected for terms of two years, and in 1992 and every ten years thereafter the commissioners to be elected from districts 2 and 4 shall be elected for terms of two years. Terms of office shall commence on the second Tuesday following the general election at which the commissioner was elected.

Section 4.06. Reapportionment.

Within 120 days after the certification of the federal decennial census, the board of county commissioners shall reapportion districts 1 through 4. Before doing so, the board of county commissioners shall cause an accurate description of the proposed new boundaries of such districts to be entered upon its minutes and a certified copy thereof to be published once each week for four consecutive weeks (four publications being sufficient) in a newspaper of general circulation published in the county and via electronic media. The notice shall include the date of the meeting at which the board shall consider such boundaries and take testimony from the public regarding boundary changes. Proof of such publication shall be entered on the minutes of the board. The publication of the notice shall be for information only and shall not be jurisdictional. Should the board of county commissioners desire to make substantial changes to the proposed boundaries that were initially advertised and considered at the public meeting, the board of county commissioners shall hold an additional meeting to consider such new boundaries within 28 days of the first meeting and shall cause an accurate description of the new proposed districts to be advertised once each week for two weeks in a newspaper of general circulation and via electronic media. Whenever the boundaries of the existing districts are changed, the board shall cause its clerk to furnish the Department of State with a certified copy of its minutes, reflecting the description of the boundaries of the district, as changed.

Section 4.07. Compensation.

Salaries of all commission members shall be as provided by ordinance at 75 percent or higher of the salary which would have been provided by general law had this Charter not been adopted. Such salary shall constitute full compensation for all services and expenses provided that commissioners may be reimbursed for mileage while traveling on commission business within Hillsborough County and for travel expenses when traveling outside of Hillsborough County on official business, in accordance with general law. The chairman shall receive additional remuneration in an amount often percent of the basic salary for the period of time such person serves as chairman of the commission.

Section 4.08. Enactment of Ordinances and Resolutions.

The commission may take official action only by the adoption of ordinances, resolutions, or motions. Unless otherwise provided herein, all ordinances, rules and resolutions shall be adopted by at least 4 affirmative votes, and all motions shall be adopted by majority vote of the members present. A majority of the full commission shall constitute a quorum to conduct business.

Section 4.09. Conflict with Municipal Ordinances.

In the event of a conflict between a county ordinance and a municipal ordinance, the municipal ordinance shall prevail within the municipality regardless of whether the municipal ordinance was adopted or enacted before or after the county ordinance.

Section 4.10. County Internal Auditor.

- (1) To advise the board of county commissioners and assist the board of county commissioners in conducting continuing studies of the operation of county programs and services, there shall be a county internal auditor.
- (2) The county internal auditor shall be appointed by five (5) affirmative votes of the board of county commissioners. The board of county commissioners, at any time, may remove the county internal auditor with five (5) affirmative votes. The county internal auditor shall be responsible directly to the board of county commissioners. The county internal auditor need not be a resident of Hillsborough County at the time of appointment, but shall become a resident of Hillsborough County within a reasonable period of time and remain a resident of Hillsborough County while in office.
- (3) The county internal auditor shall be a certified public accountant holding an active license to practice public accountancy in the State of Florida, and/or shall be qualified by education and experience in governmental accounting, internal auditing practice, and fiscal controls. The county internal auditor shall not engage in any other business or occupation. The compensation of the county internal auditor shall be fixed by the board of county commissioners at a level which is commensurate with the requirements of the position. The county internal auditor's compensation, including severance pay, may be set by contract.
- (4) The board of county commissioners shall bi-annually establish an audit committee of 3 to 5 members who shall be selected by the board of county commissioners from among qualified applicants from the public and who shall meet without compensation from time to time for the purpose of making internal audit program recommendations to the board of county commissioners. The board of county commissioners shall annually, after receiving recommendations from the audit committee, give direction to the county internal auditor. The Hillsborough County internal auditor's work may include audits of all aspects of this Charter Government and its offices and its officials with written audit reports submitted to both the board of county commissioners and the county administrator. To the extent it is reasonable, the County internal auditor's work shall comply with professional standards for internal auditing. To the degree necessary to fulfill the responsibilities directed by the board, the auditor shall have free and unrestricted access to Charter government employees, officials, records, and reports and where appropriate, may require all divisions, offices, and officials of the Charter government to provide all oral and written reports and to produce documents, files and other records.
- (5) The county internal auditor shall hire, on either a full-time or part-time basis, and may remove assistants. The number and qualifications of assistants shall be provided by the board of county commissioners. The county internal auditor may also be authorized by the board of

county commissioners to hire outside expertise as may be deemed necessary. The county internal auditor's budget shall be set by the board of county commissioners.

- (6) The office of county internal auditor shall be deemed vacant if the incumbent: takes up residence outside of Hillsborough County; dies; resigns; or is removed by five (5) affirmative votes of the board of county commissioners. A vacancy in the office of the county internal auditor shall be filled in the same manner as the original appointment.
- (7) The county internal auditor shall not hold any political office nor take part in any political activity other than voting.

V. Executive Branch County Administrator

Section 5.01. County Administrator.

The executive responsibilities and powers of local self government of the county not inconsistent with this Charter shall be assigned to and vested in the county administrator. One or more assistant county administrators may be appointed by the county administrator with the advice and consent of the board and shall serve at the pleasure of the county administrator.

Section 5.02. Administrative Organization.

All functions of the executive branch shall be allotted among not more than ten divisions or of fines. Each division or office shall be administered by a division or office head in accordance with the administrative code. Each division or office head shall be appointed by the county administrator with the advice and consent of the board and shall serve at the pleasure of the county administrator. Each division or office head shall report to and be responsible to the county administrator or designated assistant county administrator. The county administrator may, as allowed by ordinance, require one division or office to undertake a task of another division or office on a temporary basis or until the board provides otherwise.

Section 5.03. County Administrator: Qualifications, Appointment, Compensation.

- (1) The county administrator shall be a full-time officer who holds a masters degree in public administration, management, or related field and shall have three years of executive or management experience in public administration. The county administrator shall be appointed by an affirmative vote of not less than five members of the Board of County Commissioners and may be removed at any time by an affirmative vote of not less than five members of the board or upon the affirmative vote of 4 members at each of 2 regular meetings not less than 13 days apart and no more than 28 days apart. The administrator need not be a resident of the county at the time of appointment, but shall within a reasonable time become and remain while in office a resident of the county. The county administrator shall not engage in any other business or occupation.
- (2) The compensation of the administrator shall be fixed by the Board of County Commissioners by ordinance at a level which is commensurate with the requirements of the position. The

county administrator's compensation, including severance pay, may be set by contract if allowed by and pursuant to ordinance.

- (3) The office of county administrator shall be deemed vacant if the incumbent: takes up residence outside the county; is by death, illness, or other casualty unable to continue to perform the duties of his office; resigns; or is removed by the board of county commissioners in the manner prescribed in Section 5.03(1). A vacancy in the office shall be filled in the same manner as the original appointment. The board of county commissioners may appoint an interim administrator in the case of vacancy, temporary absence, or disability of the present administrator until a successor has been appointed and qualified or the administrator returns.

Section 5.04. Political Activity by Administrator.

The county administrator shall not hold any political office nor take part in any political activity other than voting.

Section 5.05. Performance Bond.

The county administrator shall be required to post a performance bond in accordance with general law.

VI. County Attorney

Section 6.01. Legal affairs.

The legal affairs of the County shall be assigned to and vested in the Office of the County Attorney. The office will consist of the County Attorney who shall be head of the office together with such chief assistants and other assistant county attorneys and legal support personnel as may from time to time be required subject only to budget determinations of the Board of County Commissioners. All attorneys and employees of the office shall serve at the pleasure of the County Attorney.

Section 6.02. County attorney duties.

- (1) The County Attorney shall be responsible for representing, and is hereby authorized to represent, the Board as its County Attorney. The County Attorney shall provide legal services, including management and participation in all litigation and other such legal services, required to protect the interests of the County; and shall render legal advice and perform other legal and administrative responsibilities as described elsewhere herein to the Board and to all other departments and agencies of County government that the Board from time to time authorizes and directs.
- (2) The duties, responsibilities and authority of the County Attorney shall include, without limitation: (a) providing legal advice and counsel to, and legal representation of, the Board, the County Administrator and the departments, agencies and officers of the County on all matters pertaining to the business of the County or in connection with the duties of the department, agency or office; (b) coordinating with the County Administrator and various departments and offices under his jurisdiction regarding all matters affecting and implicating overall County administration, including, without limitation, budgetary, personnel and

procurement matters; (c) advising and providing recommendations to the Board regarding the need for the selection of any special counsel to be retained to provide legal representation in specified matter; and (d) supervising, monitoring and coordinating, as appropriate, the representation services and work of outside attorneys employed pursuant to Subsection (c) above.

- (3) Upon direction of the Board and with the consent of the County Attorney, the County Attorney's Office may provide legal advice and counsel to and representation of one or more of the County officers created under Section 1(d) of Article VIII of The Florida Constitution or any other state or local governmental office, unit or entity serving the County's interest and welfare and as may be authorized by law or interlocal agreement. At the request of the Board of County Commissioners, the County Attorney is hereby authorized to represent the Board of County Commissioners when it is acting as any other separate agency or legal entity consisting of the Hillsborough County Board of County Commissioners. The responsibility and authority of the County Attorney when serving as attorney in these matters shall include, but not be limited to, those duties and responsibilities as herein set out for the County Attorney.
- (4) Nothing herein contained shall be construed as requiring the attorney to render legal services in any particular circumstance where, in the professional discretion and judgment of the attorney, the rendering of such legal services would violate the provisions of the Code of Professional Responsibility of the Florida Bar or create a direct conflict of interest between the County and attorney.

Section 6.03. County attorney qualifications, appointment, compensation.

- (1) The County Attorney shall be and remain a member of The Florida Bar and shall have had at least five (5) years experience in Local Government Law or equivalent and such other experience as determined by the Board. The County Attorney need not be a resident at the time of appointment but shall within a reasonable time become and remain a resident of the County and remain so while in office. The County Attorney shall be a full time employee of the County and shall not otherwise engage in the practice of law except as may be authorized by the Board. The County Attorney shall be appointed by an affirmative vote of not less than five (5) members of the Board of County Commissioners and may be removed at any time by an affirmative vote of not less than five (5) members of the Board or upon the affirmative vote of four (4) members at each of two (2) regular meetings not less than thirteen (13) days apart and no more than twenty-eight (28) days apart.
- (2) The compensation of the County Attorney, including severance pay and other benefits, shall be fixed by contract, ordinance or resolution as determined by the Board at a level commensurate with the requirements of the position.
- (3) The Office of the County Attorney shall be deemed vacant if the incumbent is removed, resigns, moves his residence from the County or is, by death, illness or other casualty, unable to continue in office. In the case of temporary vacancy or absence or disability, until a successor has been appointed or the County Attorney returns, the Chief Assistant County Attorney or other Assistant Attorney designated by the County Attorney shall serve as the County Attorney upon approval of the Board.

Section 6.04 Special attorneys; bond counsel; disclosure counsel.

- (1) Special attorneys may be employed by the Board of County Commissioners upon the recommendation of the County Attorney regarding the need for the selection of any special counsel to provide legal representation in specified matters.

- (2) Bond and disclosure counsel shall be selected by the Board of County Commissioners from a list of not less than three (3) qualified respondents to publicly noticed solicitations for bond and disclosure counsel and upon the recommendation of the County Administrator and County Attorney.

Section 6.05 Political activity by County Attorney.

The County Attorney shall not hold any political office nor take part in any political activity other than voting.

VII. Administrative Code

Section 7.01. Purpose of Administrative Code.

The board of county commissioners shall enact and amend by ordinance an administrative code organizing the administration of the county government into divisions and offices and setting forth the duties, responsibilities, and powers of the county administrator, any assistant county administrators, if any, and divisions and offices of the county government not in conflict with the provisions of this Charter. It shall be the responsibility of the county administrator to compile, publish, and disseminate the administrative code, and to recommend revisions thereof in a continuing program to provide greater efficiency and economy in the operation of government.

Section 7.02. Initial Code.

Within ninety (90) days after the first organizational meeting of the board under this Charter, the county administrator shall submit a proposed administrative code to the board of county commissioners. The board of county commissioners shall adopt the proposed code, as submitted or amended, within three (3) months after the date submitted. If not adopted within three (3) months, the code, as proposed by the administrator, shall govern the operations of the county administrator, divisions and offices until such time as one may be adopted formally by the board of county commissioners.

VIII. Amendments To Charter

Section 8.01. By the Board of County Commissioners.

The board of county commissioners may propose amendments to this Charter by ordinance approved by at least five (5) members.

Section 8.02. Charter Review Board.

Within two years after the effective date of this Charter and every five years thereafter, the board of county commissioners shall appoint a charter review board consisting of fourteen (14) electors of the county. Each commissioner shall appoint two members of the charter review board who shall be electors in that commissioner's district, and none of whom may be an elected official. Members of the charter review board shall serve for a term of one year without compensation. Such board shall be empowered to conduct a comprehensive study of any or all phases of county government. The board of county commissioners shall provide such professional, technical, and clerical assistance as may be reasonably required by the charter review board upon submission of an appropriately documented request by the charter review board. The charter review board shall, after two public hearings and upon approval of two thirds of its members, file any proposed amendments to the Charter, if any, with the supervisor of elections who shall provide for a vote on it pursuant to Section 8.04.

Section 8.03. Initiative.

The power to propose amendments to this Charter by initiative is vested in the people:

- (1) The power may be invoked by filing with the supervisor of elections a petition containing a copy of the proposed Charter amendment. Each petition must be circulated in each numbered board district and must be signed by a number of electors in each of one-half of districts 1 through 4 and of the county as a whole equal to eight percent of the votes cast in each of such districts and the county as whole in the last preceding election in which a president or presidential electors were chosen. The address of each signer, and date of each signature, must appear on the petition. Each petition shall embrace but one subject and matter properly connected therewith. A date certain must be designated to and certified by the supervisor of elections as the beginning date of any petition drive, and said drive shall terminate six months after that date. In the event sufficient signatures are not acquired during that six-month period, the petition drive shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition.
- (2) The petition shall be filed with the supervisor of elections who shall, within a period of not more than thirty (30) days, determine whether the petition contains the required valid signatures. The supervisor shall be paid the sum specified by general law by the persons or committee seeking verification.
 - a) If it is determined that the petition does not contain the required signatures, the supervisor shall so certify to the board of county commissioners and the petition drive shall be at an end. No additional names may be added to the petition, and the petition shall not be used in any other proceeding.
 - b) If it is determined that the petition has the required signatures, the supervisor shall so certify to the board of county commissioners and place the amendment on the ballot.
- (3) All other procedures shall be as provided by general law for constitutional amendments with the supervisor of elections performing the duties of the secretary of state.

Section 8.04. Elections and Notice.

All elections shall be held and conducted pursuant to the provisions of general law except as otherwise provided in this Charter. Charter amendments by ordinance shall be voted on at special elections or regular elections as the board of county commissioners chooses. Charter review and initiative amendments shall be voted on at the next regular general election. Amendments shall become effective upon approval by a majority vote of the electors voting at the next scheduled countywide election or special referendum election.

Section 8.05. Financial Impact Statement for All Proposed County Charter Amendments and Countywide Referenda.

The board of county commissioners shall require by ordinance that for all County elections, a separate financial impact statement, not exceeding seventy-five words, including a two-year estimate of the increase or decrease in revenues or costs to the county resulting from approval of all proposed county Charter amendments and all other proposed countywide referenda unrelated to a county Charter amendment, be prepared by the county budget director and placed on the ballot immediately following the ballot question.

IX. General Provisions

Section 9.01. Limitation on State Law.

No law passed by the state legislature shall be effective as to the county government:

- (a) Unless it is approved at referendum, or
- (b) Except to the extent,
 - (1) the Florida Constitution or this Charter requires that it be effective, or
 - (2) it permits this county government to grant powers to, receive powers from, or combine powers with other governmental entities, or
 - (3) it solely affects (i) Tax authorization not inconsistent with this Charter or (ii) the relations of this county government to any governmental body which has jurisdiction extending beyond the boundary of Hillsborough County, or
 - (4) it is authorized under Section 2.01.

Section 9.02. Construction of the Charter.

It is the intent of the electorate in adopting this Charter that this Charter shall be liberally construed to achieve the objectives of local home rule and separation of branches as set forth herein.

Section 9.03. Code of Ethics.

The code of ethics for public officers and employees and the penalties for violation thereof as provided by general law or more restrictive ordinance, if any, shall be applicable to all employees and office holders of this county government.

Section 9.04. Political Activities.

Political activities of officers and employees of the county government shall be governed and controlled by general law except as provided herein and except that the county administrator's assistants and division and office heads, the county internal performance auditor, the county internal performance auditor's assistants, and the county attorney and his assistants, shall not hold any political office nor take part in any political activity relating to county commission elections, other than voting.

Section 9.05. Severability.

It is the intent of the electorate in adopting this Charter that if any section, subsection, sentence, clause, term or word of this Charter is held invalid, the remainder of the Charter shall not be affected.

Section 9.06. Vacancies.

Vacancies in commission districts shall be deemed to exist and be filled in accordance with the Constitution and Laws of Florida.

Section 9.07. Public Meetings.

Meetings of the board of county commissioners and other boards shall be held and conducted as provided by general law and rules of the board not inconsistent therewith.

Section 9.08. Recall.

The people shall have the power to recall elected officials by recall election initiated, called, held and conducted as provided by general law for chartered counties.

Section 9.09. Planning.

There shall be for Hillsborough County and its municipalities a single local planning agency created by such special law or laws which need not be approved by a referendum. It shall have responsibility for comprehensive planning and related activities as are committed to it by general law or applicable special laws.

Section 9.10. Environmental Protection.

There shall be for Hillsborough County and its municipalities a single local environmental protection commission created by such special law or laws which need not be approved by referendum.

Section 9.11 Discrimination Prohibited.

To be consistent with federal and state constitutions, laws, rules, and regulations, the county government shall not deprive any person of any right because of race, sex, age, national origin, religion, disability, or political affiliation. The administrative code shall provide adequate means for protecting these rights, including equal opportunity assurances.

Section 9.12. Lowering of Salaries.

The salaries of commissioners and the county administrator may be lowered to the extent allowed by general law.

X. Transition And Schedule

Section 10.01. Offices and Officers of Former Government.

Unless otherwise provided by this Charter, all offices, officials, boards, commissions, and agencies of the former government shall continue to perform their respective duties and functions until such minimum time allowed for the adoption of an administrative code pursuant to Section 7.02. At said time, said duties and functions shall be performed in accordance with the administrative code.

Section 10.02. Interim County-Wide Districts.

The commissioners elected countrywide in the year 1982 shall immediately become commissioners from districts 5 and 7 respectively and stand for initial election [in] 1986.

Section 10.03. Initial Commissioners.

By November 15, 1983, the board of county commissioners shall establish the apportionment of districts 1 through 4 under procedures provided in Section 4.06 and using the 1980 federal decennial census population figures. At the 1984 general elections commissioners from districts 1 through 4 and district 6 shall be elected, with the terms of the new commissioners from districts 1 and 3 to be for two years only and the terms of commissioners from districts 2, 4 and 6 to be for four years. The commissioners from districts 2 and 4 as drawn in 1981, who were elected by county-wide vote in 1982, shall serve as the commissioners from districts 5 and 7 respectively until the second Tuesday following the 1986 general election, but if either is not in office at the beginning of qualification in 1984, then a commissioner for new district 5 or 7, as the case may be, shall be elected in the initial election for a term of 2 years.

Section 10.04. Effective Date of Government.

County government shall go into force and effect when the commissioners elected at the 1984 general election take office.

Section 10.05. Preservation of Existing Government.

All provisions of the laws or parts thereof rendered ineffective as to the county government

by Section 9.01, which are not inconsistent with this Charter shall become ordinances of this government subject to modification or repeal as are other ordinances; however, they shall stand repealed as of November 15, 1985.

Section 10.06. Preservation of Existing Ordinances.

All ordinances, codes, rules, regulations and resolutions of the county of Hillsborough or any of its agencies which are not inconsistent with this Charter, shall become ordinances, rules, regulations of the county government subject to modification or repeal as are other ordinances.

Section 10.07. Rights Reserved.

- (a) Obligations Honored. All lawful rights and obligations, of whatever kind or nature in existence on the date this Charter is approved by the electors, of the local government becoming a part of the county government on the one hand, and any person, firm, corporation, other government or agency on the other hand, shall become the rights and obligations of the county government.
- (b) No Enlargement of Obligations. All such rights and obligations shall be limited to the area, or funds, which would have been subject to such rights or obligations if this Charter had not been adopted.

Section 10.08. Classified Employees and Officers.

All employees in the classified service and officers of the county shall be transferred to the division, office, or agency to which the functions, powers, and duties in which they were engaged upon the effective date of this Charter are allocated under this Charter. Such transfer shall be without examination or diminution of existing compensation, pension, or retirement rights, privileges, or obligations of any such officers or employee. The adoption of any subsequent classified service plan shall not adversely affect the tenure, pension, seniority, or promotional rights of any county officer or employee in the classified service when this Charter is adopted.

XI. Surtax for Transportation Improvements

Section 11.01. Purpose of Surtax.

The purpose of the surtax levied in accordance with Section 11.02 below is to fund transportation improvements throughout Hillsborough County, including road and bridge improvements; the expansion of public transit options; fixing potholes; enhancing bus service; relieving rush hour bottlenecks; improving intersections; and making walking and biking safer. The proceeds of the surtax shall be distributed and disbursed in compliance with F.S. § 212.055(1) and in accordance with the provisions of this Article 11.

Section 11.02. Levy of One-Cent Surtax to Fund Transportation Improvements.

There shall be levied throughout the incorporated and unincorporated areas of Hillsborough

County an additional tax imposed on sales, use, services, rentals, admissions, and other transactions by Chapter 212, Florida Statutes, and communications services as defined by Chapter 202, Florida Statutes, at the rate of one cent for each \$1.00 of the sales price or actual value received, and for each fractional part of \$1.00 of the sales price or actual value received (the "Transportation Surtax"). The Transportation Surtax shall be levied and imposed in accordance with F.S. §§ 212.054 and 212.055(1), the rules promulgated by the Florida Department of Revenue, and this Article 11. Any other provision of this Charter to the contrary notwithstanding, all proceeds from the Transportation Surtax, including any interest earnings and bond proceeds generated therefrom, shall be expended only as permitted by this Article 11, F.S. § 212.055(1), and in accordance with the purpose set forth in Section 11.01 above. For purposes of this Article 11, Hillsborough County, Florida (the "County"), each municipality, as defined in F.S. § 165.031, that is located in the County (the "Municipalities"), and the Hillsborough Area Regional Transit Authority or its successor ("HART") are each an "Agency" and collectively, the "Agencies." "Independent Oversight Committee" shall refer to the committee mandated and governed by Section 11.10 below.

Section 11.03. Duration of Transportation Surtax.

The Transportation Surtax authorized by this Article 11 shall be effective commencing January 1, 2019, and shall remain in effect for a period of thirty (30) years.

Section 11.04. Duties of the Clerk.

The Clerk of the Circuit Court of Hillsborough County, Florida (the "Clerk") shall receive the proceeds of the Transportation Surtax (the "Surtax Proceeds") from the Florida Department of Revenue and act as trustee thereof and shall retain all Surtax Proceeds in a separate account until disbursed in accordance with this Section 11.04 and the distribution allocations provided for in Section 11.05. Disbursements of the Surtax Proceeds in accordance with the distribution allocations provided in Section 11.05 shall be made to the Agencies by the Clerk within five (5) business days of the Clerk's receipt of Surtax Proceeds from the Florida Department of Revenue. Additionally, the Clerk shall provide, on behalf of the board of county commissioners, the notices to the Florida Department of Revenue required by F.S. §§ 212.054(7)(a) and (b), and any other notices that must be delivered to the Department of Revenue or the State of Florida as required by applicable law. The Clerk shall engage an independent accounting firm to conduct an annual, independent audit of the distribution and expenditure of all Surtax Proceeds, which shall be completed within six (6) months after the end of the fiscal year being audited, for the purpose of determining the Clerk's and each Agency's compliance with the provisions of this Article relating to the distribution and expenditure of Surtax Proceeds during such fiscal year. For the duration of the period in which the Transportation Surtax is in effect, the board of county commissioners shall appropriate County funds to the Clerk on an annual basis to permit the Clerk to carry out the annual audit of Surtax Proceeds described in this Section 11.04.

Section 11.05. Distribution of Surtax Proceeds.

The Surtax Proceeds shall be deposited in a dedicated trust fund (the "Trust Fund") maintained by the Clerk and distributed in accordance with the following formula:

(1) General Purpose Portion. Fifty-four percent (54%) of the Surtax Proceeds (the "General

Purpose Portion”) shall be distributed to the County and to each Municipality in accordance with their relative populations as calculated utilizing the statutory formula provided in F.S. § 218.62 (the “Distribution Formula”) and be expended by the County and each Municipality in accordance with Section 11.07. The County and each Municipality may elect to bond or otherwise encumber their respective distribution of the Surtax Proceeds allocated pursuant to this Section 11.05(1), and shall provide notice of such election to the other recipients of the General Purpose Portion at least ninety (90) days prior to issuing bonds.

(2) Transit Restricted Portion. Forty-five percent (45%) of the Surtax Proceeds (the “Transit Restricted Portion”) shall be distributed to HART and be expended by HART in accordance with Section 11.08. Subject to compliance with applicable law and the charter of HART, HART may elect to directly, or through the County, bond or otherwise encumber the Transit Restricted Portion.

(3) Planning and Development Portion. One percent (1%) of the Surtax Proceeds (the “Planning and Development Portion”) shall be distributed to the metropolitan planning organization described in F.S. § 339.175 whose jurisdiction includes Hillsborough County (the “MPO”). The Planning and Development Portion shall be expended by the MPO on planning and development purposes, including data collection, analysis, planning, and grant funding to assist the Agencies and the Independent Oversight Committee in carrying out the purpose set forth in Section 11.01.

Section 11.06. Agency Project Plans.

No later than September 30th of each year, each Agency shall deliver to the Independent Oversight Committee a plan (a “Project Plan”) setting forth the projects, including reasonable detail for each, on which such Agency will expend their distribution of the Surtax Proceeds for the following calendar year in accordance with the uses mandated by Sections 11.07 and 11.08 below. Each Project Plan must be approved by the governing body of the applicable Agency and by a majority vote of the Independent Oversight Committee at a public hearing. No Agency may expend Surtax Proceeds for any purpose other than implementation of each of the projects set forth in such Agency’s Project Plan, and each Agency shall diligently and prudently pursue implementation of each of the projects set forth in such Agency’s Project Plan. If any Agency desires to amend its Project Plan after the Independent Oversight Committee has approved the same, the Independent Oversight Committee shall approve or disapprove (and state the basis therefore) the amended Project Plan within thirty (30) days of an Agency’s request to amend.

Section 11.07. Uses of General Purpose Portion.

For any Agency that the Clerk reasonably estimates will receive five percent (5%) or more of the Surtax Proceeds in a given calendar year, such Agency’s share of the General Purpose Portion shall be expended by the Agencies for the planning, development, construction, operation, and maintenance of roads, bridges, sidewalks, intersections, and public transportation (which, for purposes of this Section, may include any technological innovations such as autonomous vehicles and related infrastructure), to the extent permitted by F.S. § 212.055(1), and include expenditures in the following categories:

(1) Maintenance and Vulnerability Reduction. At least twenty percent (20%) of the General

Purpose Portion shall be expended on projects that: (i) improve, repair and maintain existing streets, roads, and bridges, including fixing potholes, or (ii) reduce congestion and transportation vulnerabilities.

(2) Congestion Reduction. At least twenty-six (26%) of the General Purpose Portion shall be expended to relieve rush hour bottlenecks and improve the flow of traffic on existing roads and streets and through intersections. Expenditures in the category described in this Section 11.07(2) may include projects that improve intersection capacity through the use of technology, the construction of new intersections, the redevelopment of existing intersections, and may include related infrastructure such as roundabouts and turn lanes. Projects described in the foregoing sentence do not constitute New Automobile Lane Capacity, as defined in Section 11.07(8) below.

(3) Transportation Safety Improvements. At least twenty-seven (27%) of the General Purpose Portion shall be expended to promote transportation safety improvements on existing streets, roads and bridges.

(4) Transportation Network Improvements. At least twelve (12%) of the General Purpose Portion shall be expended on bicycle or pedestrian infrastructure and related improvements that make walking and biking safer, to the extent the foregoing is or is planned to become a part of the transportation network within any Agency's jurisdiction, and to the extent permitted by F.S. § 212.055(1).

(5) Remaining Funds. Any remaining portions of the General Purpose Portion shall be expended on any project to improve transportation in the applicable Agency's jurisdiction to the extent permitted by F.S. § 212.055(1) and this Article.

(6) Inter-Agency Distributions. Notwithstanding anything to the contrary set forth in this Section 11.07, the County and each Municipality may distribute any amount of its share of General Purpose Portion to any Agency (an "Agency Distribution"). For purposes of this Section, any Agency's share of the General Purpose Portion shall be reduced, or increased, by the amount of the Agency Distribution distributed, or received, as the case may be.

(7) Small Agency Distributions. Notwithstanding anything to the contrary set forth in this Section 11.07, any Agency that receives five percent (5%) or less of the Surtax Proceeds in any given calendar year, on an annualized basis, is not required to expend its share of General Purpose Portion on the categories set forth in Section 11.07(1) through (5) above, and shall instead expend its distribution of the Surtax Proceeds on any purpose consistent with Section 11.01 and permitted by F.S. § 212.055(1).

(8) Limits on New Automobile Lane Capacity. Agencies are prohibited from expending any funds from the categories mandated by Section 11.07(1), (2) and (3) above on New Automobile Lane Capacity. For purposes of this Section 11.07(8), "New Automobile Lane Capacity" means projects that consist of (i) adding additional lanes for automobile traffic to existing roads or streets that are not related to intersection capacity improvement, or (ii) constructing new roads or streets.

(9) Reallocation of Expenditure Categories. Upon request by an Agency, which request must be approved by seventy-five percent (75%) of the Independent Oversight Committee, the General Purpose Portion expenditure allocations mandated in Sections 11.07(1) through (3) above may instead be expended on any project to improve transportation within such Agency's jurisdiction to the extent permitted by F.S. § 212.055(1) and this Article if, in the opinion of the requesting Agency, any of the percentages set forth in Sections 11.07(1) through (3) exceed the amounts required to fulfill the purpose set forth therein.

Section 11.08. Uses of Transit Restricted Portion.

The Transit Restricted Portion, and any Agency Distribution received by HART, shall be spent by HART for the planning, development, construction, operation, and maintenance of public transportation projects located solely in Hillsborough County, which are consistent with the HART Transit Development Plan, as adopted and amended from time to time by the HART board of directors, to the extent permitted by F.S. § 212.055(1), and include expenditures in the following categories:

(1) Enhancing Bus Services. No less than forty-five percent (45%) of the Transit Restricted Portion shall be spent on bus services, including express, neighborhood, circulator, paratransit, and all other types of transit now or hereafter operated by HART. HART shall consider the following factors in determining the projects included in its Project Plan for this purpose: existing transit ridership; increasing existing service; expanding service to more residents; existing and future land use; and the availability and feasibility of obtaining third party funding sources to fund any portions of the Project Plan.

(2) Expanding Public Transit Options. No less than thirty-five percent (35%) of the Transit Restricted Portion shall be spent on transit services that utilize exclusive transit right-of-way for at least seventy-five percent (75%) of the length of the applicable service. HART shall consider the following factors in determining the projects included in its Project Plan for this purpose: existing transit ridership; utilizing or extending existing fixed guideways and rights-of-way; increasing existing service; expanding service to more residents; existing and future land use; and the availability and feasibility of obtaining third party funding sources to fund any portions of the Project Plan.

(3) Remaining Funds. Any remaining portions of the Transit Restricted Portion shall be spent on any project to improve public transportation permitted by F.S. § 212.055(1) or this Charter.

Section 11.09. Suspension of Distribution.

In the event it is determined by a two-thirds majority of the Independent Oversight Committee that an Agency has failed to comply with any term or condition of this Article 11 and such Agency fails to correct such non-compliance within reasonable periods of time determined by the Independent Oversight Committee, but not more than ninety (90) days following written notice of such noncompliance, the Independent Oversight Committee may direct that distributions of the Surtax Proceeds to such Agency be suspended by the Clerk and held by the Clerk in the Trust Fund until such time as the Agency has cured the non-compliance, at which point distributions of the Surtax Proceeds to such Agency shall re-commence and any withheld Surtax Proceeds shall be

distributed to the Agency.

The foregoing shall not apply to any portion of Surtax Proceeds encumbered by bond indebtedness pursuant to law; provided, however, that the financing instruments for such bond indebtedness include covenants requiring the Agency to comply with the terms and conditions of this Charter.

Section 11.10. Independent Oversight Committee.

To ensure that the Transportation Surtax is successfully implemented, independent oversight of the distribution and expenditure of the Surtax Proceeds shall be provided by an Independent Oversight Committee, which shall be composed of Hillsborough County residents appointed by the following bodies: (i) four (4) individuals appointed by the board of county commissioners, and of which two are Experts (as defined below) in either transportation, planning, sustainability, engineering, or construction; (ii) one (1) from each Municipality, appointed by the mayor thereof; (iii) one (1) additional member from each Municipality for each 200,000 residents in such Municipality, appointed by the legislative body of that Municipality, based on population estimates published annually by the State of Florida; (iv) two (2) from HART, appointed by the HART board of directors; (v) one (1) attorney, who is a member by the Florida Bar, appointed by the Clerk; (vi) one (1) land use or real estate Expert appointed by the Hillsborough County Property Appraiser; and (vii) one (1) certified public accountant appointed by the Hillsborough County Tax Collector. No person then currently serving as an elected or appointed city, county, special district, state, or federal public office holder shall be eligible to serve as a member of the Independent Oversight Committee. Additionally, no member of the Independent Oversight Committee may be an employee of, independent contractor of, or otherwise be materially engaged for remuneration by any public or private recipient of Surtax Proceeds. Independent Oversight Committee members shall serve terms of three (3) years, without compensation, and each shall serve at the pleasure of the appointing body. The Independent Oversight Committee may make and adopt such by-laws, rules and regulations for its own guidance and for the oversight of the Transportation Surtax as it may deem expedient and not inconsistent with this Charter. The Independent Oversight Committee shall have only those powers and duties specifically vested in it by this Section 11.10. A majority of the members of the Independent Oversight Committee shall constitute a quorum, and the Independent Oversight Committee may conduct business only when a quorum is present. For the duration of the period in which the Transportation Surtax is in effect, the board of county commissioners shall appropriate County funds on an annual basis for the administrative expenses of the Independent Oversight Committee in an amount sufficient for the Independent Oversight Committee to fulfill its duties under this Article 11. For purposes of this Section 11.10, "Expert" means an individual who has at least seven years of experience in their respective subject matter area, and possesses professional accreditations or degrees that are typical of an expert in their respective subject matter area. The Independent Oversight Committee shall have the powers and duties set forth below:

(1) Review the results of the annual audit described in Section 11.04 and make findings as to whether the Clerk and each Agency has complied with the terms of this Article. Such findings shall include a determination as to whether Surtax Proceeds have been distributed as provided in this Article and whether the Surtax Proceeds have been expended in compliance with applicable state

law, this Article, and any additional requirements that an Agency may have lawfully adopted.

(2) Approve Project Plans and approve and certify as to whether the projects therein comply with this Article.

(3) Prepare an annual report to the Clerk and each Agency presenting the results of the annual audit process and any findings made. The Independent Oversight Committee shall cause a summary of the annual report to be published in a local newspaper and ensure that the report and annual audit are available online and are delivered to every library located within the County for public review. The Independent Oversight Committee shall hold a public hearing on each audit and annual report and shall report the comments of the public to each Agency.

(4) Review any projects proposed by citizens for inclusion in an Agency's Project Plan, and forward them to the appropriate Agency for consideration.

Section 11.11. Miscellaneous.

(1) Prohibited Uses. No Surtax Proceeds may be used for any of the following uses: (i) expansion of right of way or width of the interstate highway system; (ii) construction of a sports facility or any other facility not related to transportation; or (iii) any other use expressly prohibited by law.

(2) Severability. To the extent that any mandated expenditure category set forth in Section 11.07 or 11.08 is deemed by a court of competent jurisdiction to be an impermissible use of Surtax Proceeds, the funds allocated to such impermissible use shall be expended by the applicable Agency on any project to improve public transportation permitted by F.S § 212.055(1) and this Article.

(3) Supremacy. This Article 11 shall at all times be interpreted in a manner consistent with the laws of Florida, and in the event of any conflict between the provisions of this Article 11 and the laws of Florida, the laws of Florida shall prevail.