

ARTICLE 1**CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT****SECTION 1.1. CREATION AND GENERAL POWERS OF HOME RULE CHARTER GOVERNMENT**

WE, THE PEOPLE of Brevard County, residing in the constituent State of Florida of the United States of America, grateful for and secure in our protected individual rights, and in affirmation of dedication to the Constitutions and laws of the United States and of the State of Florida, do ordain and establish this Home Rule Charter for the execution of our County Government for the most common benefits to all our inhabitants. Brevard County shall be a home rule charter county, and, except as may be limited by this Home Rule Charter, shall have all powers of self-government granted now or hereafter by the Constitution and laws of the State of Florida. (Amd. 11-7-2004)

SECTION 1.2. BODY CORPORATE, NAME AND BOUNDARIES

Brevard County shall be a body corporate and politic. The corporate name shall be Brevard County. The county seat and boundaries shall be those designated by the law on the effective date of this Charter.

SECTION 1.3. CONSTRUCTION

The powers granted by this Home Rule Charter shall be construed liberally in favor of the charter government. The enumeration of certain rights and powers in this charter shall not limit, deny or disparage the right of the people of Brevard County to the fullest measure of home rule authority allowed by the State Constitution to the citizens of charter counties.

SECTION 1.4. SPECIAL POWERS AND DUTIES OF COUNTY

The County, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by State or Federal law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

1.4.1. Tax millage.

Subject to the reserved powers of the people under Article 5 of this Charter, the County shall have all necessary powers to levy taxes and to accomplish county and municipal purposes. Property situated within municipalities shall not be subject to taxation for services rendered by the County exclusively for the benefit of property or residents not within municipal boundaries, nor shall property situated in the unincorporated area of the county be subject to taxation for the benefit of the property or residents within municipal boundaries. To this end the Board of County Commissioners may by ordinance, subject to the limits set forth in Section 5.4.1. of this Charter, create districts for the purpose of levying ad valorem taxes and special assessments to pay for the furnishing of municipal services, and the tax imposed shall be within the limits of millage set for municipal purposes. Should such services be furnished within a municipality, the total millage levied by the municipality and the county district levy for municipal purposes shall not exceed the maximum millage set by law for municipal purposes. (Amd. 11-3-98)

1.4.2. Transfer of powers.

The County shall have the power and authority to assume and perform all functions and obligations now or hereinafter performed by any municipality, special district or agency whenever such municipality, special district or agency shall request the performance or transfer of the function to the County.

SECTION 1.5. DIVISION OF POWERS

This Charter hereby establishes the separation between legislative and executive functions of Brevard County government. The establishment and adoption of policy shall be the responsibility of the Board of County Commissioners and the execution of that policy shall be the responsibility of the County Manager.

SECTION 1.6. RELATION TO STATE LAW

The provisions of this Charter are not intended, and shall not be construed, to conflict with the Constitution of the State of Florida, general law, or special law approved by vote of the electorate.

ARTICLE 1**CREATION, POWERS AND ORDINANCES OF HOME RULE CHARTER GOVERNMENT****SECTION 1.1. CREATION AND GENERAL POWERS OF HOME RULE CHARTER GOVERNMENT**

WE, THE PEOPLE of Brevard County, residing in the constituent State of Florida of the United States of America, grateful for and secure in our protected individual rights, and in affirmation of dedication to the Constitutions and laws of the United States and of the State of Florida, do ordain and establish this Home Rule Charter for the execution of our County Government for the most common benefits to all our inhabitants. Brevard County shall be a home rule charter county, and, except as may be limited by this Home Rule Charter, shall have all powers of self-government granted now or hereafter by the Constitution and laws of the State of Florida. (Amd. 11-7-2004)

SECTION 1.2. BODY CORPORATE, NAME AND BOUNDARIES

Brevard County shall be a body corporate and politic. The corporate name shall be Brevard County. The county seat and boundaries shall be those designated by the law on the effective date of this Charter.

SECTION 1.3. CONSTRUCTION

The powers granted by this Home Rule Charter shall be construed liberally in favor of the charter government. The enumeration of certain rights and powers in this charter shall not limit, deny or disparage the right of the people of Brevard County to the fullest measure of home rule authority allowed by the State Constitution to the citizens of charter counties.

SECTION 1.4. SPECIAL POWERS AND DUTIES OF COUNTY

The County, operating under this Charter, shall have all special powers and duties which are not inconsistent with this Charter, heretofore granted by State or Federal law to the Board of County Commissioners, and shall have such additional county and municipal powers as may be required to fulfill the intent of this Charter.

1.4.1. Tax millage.

Subject to the reserved powers of the people under Article 5 of this Charter, the County shall have all necessary powers to levy taxes and to accomplish county and municipal purposes. Property situated within municipalities shall not be subject to taxation for services rendered by the County exclusively for the benefit of property or residents not within municipal boundaries, nor shall property situated in the unincorporated area of the county be subject to taxation for the benefit of the property or residents within municipal boundaries. To this end the Board of County Commissioners may by ordinance, subject to the limits set forth in Section 5.4.1. of this Charter, create districts for the purpose of levying ad valorem taxes and special assessments to pay for the furnishing of municipal services, and the tax imposed shall be within the limits of millage set for municipal purposes. Should such services be furnished within a municipality, the total millage levied by the municipality and the county district levy for municipal purposes shall not exceed the maximum millage set by law for municipal purposes. (Amd. 11-3-98)

1.4.2. Transfer of powers.

The County shall have the power and authority to assume and perform all functions and obligations now or hereinafter performed by any municipality, special district or agency whenever such municipality, special district or agency shall request the performance or transfer of the function to the County.

SECTION 1.5. DIVISION OF POWERS

This Charter hereby establishes the separation between legislative and executive functions of Brevard County government. The establishment and adoption of policy shall be the responsibility of the Board of County Commissioners and the execution of that policy shall be the responsibility of the County Manager.

SECTION 1.6. RELATION TO STATE LAW

The provisions of this Charter are not intended, and shall not be construed, to conflict with the Constitution of the State of Florida, general law, or special law approved by vote of the electorate.

SECTION 1.7. RELATION TO MUNICIPAL ORDINANCES

Except as otherwise provided by State or Federal law, municipal ordinances shall prevail over County ordinances to the extent of any conflict. To the extent that a County ordinance which is specifically applicable to the incorporated area 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.

[Top](#)

SECTION 1.7. RELATION TO MUNICIPAL ORDINANCES

Except as otherwise provided by State or Federal law, municipal ordinances shall prevail over County ordinances to the extent of any conflict. To the extent that a County ordinance which is specifically applicable to the incorporated area 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.

[Top](#)

ARTICLE 2.**LEGISLATIVE BRANCH:
BOARD OF COUNTY COMMISSIONERS****SECTION 2.1. COMPOSITION**

The Board of County Commissioners shall be composed of five members. There shall be five (5) County Commission electoral districts. Each district shall elect one (1) Commissioner.

SECTION 2.2. REDISTRICTING

In the first odd-numbered year after each decennial census, or more frequently where allowed by this section, the Board of County Commissioners shall cause the county to be divided into County Commission districts of contiguous territory as nearly equal in population as practicable. Redistricting shall be the responsibility of a Committee appointed in the same manner as a Charter Review Commission under this Charter. The recommendations of the Committee shall be made directly to the Board of County Commissioners which shall approve or disapprove them without amendment. In its recommendation the Committee shall, to the extent practicable, preserve the several municipalities and geographically cohesive racial or ethnic minority communities from fragmentation. Redistricting more frequently than decennially shall be permitted only where the population of a district has been changed by more than 25% since the last redistricting.

SECTION 2.3. QUALIFICATIONS

County Commissioners shall be qualified electors of the County. The five (5) Commissioners shall reside within the districts from which they are elected. Any such Commissioner whose residency is removed from the district shall thereupon become disqualified to represent that district, and the office of any such Commissioner shall be deemed vacant, except that any Commissioner who is removed from a district by redistricting may continue to serve during the balance of the term of office.

SECTION 2.4. TERMS OF OFFICE

Each Commissioner shall be elected and serve for four (4) years, beginning on the second Tuesday after election, and continuing after such term until a successor is elected and qualified. The terms shall be staggered as presently provided by general law. No county commissioner shall serve more than two (2) consecutive terms. (Amd. 11-3-98; 11-7-00)

SECTION 2.5. CANDIDACY AND ELECTION

Commissioners shall qualify for election at the same time and in the same manner provided by general law for county commissioners in non-charter counties. No person may qualify as a candidate or appear on the ballot for re-election to the office of county commissioner if, by the end of the current term of office, the person will have served (or, but for resignation, would have served) as a county commissioner for two consecutive terms. (Amd. 11-3-98; 11-7-00)

SECTION 2.6. SALARY AND OTHER COMPENSATION

Salary and other compensation of the County Commissioners shall be the same as that in effect on December 31, 1999. On or before October 1, 2001, and on or before October 1 of every even-numbered year thereafter, the Board of County Commissioners may adopt an ordinance fixing the salaries of Commissioners for the next two years. There shall be no automatic increases in salary or other compensation. An ordinance increasing salary or other compensation shall not become effective until the first day of January in the year following adoption of the ordinance.

The specified salary shall not exceed the average percentage increase in the salaries of county employees for the fiscal year just concluded, or the percentage change of the consumer price index from the previous year, whichever is less. All other compensation must be based on actual expenses incurred in Board directed performance of duties of Commissioners as provided by general law of the State of Florida.

An ordinance providing for an increase in salary or compensation shall be subject to nullification under the provisions for initiative provided in Article 5 of this Charter. Except for such nullification, the salary or other compensation of a Commissioner shall not otherwise be decreased during that Commissioner's term of office. (Amd. 11-7-00)

SECTION 2.7. VACANCIES AND SUSPENSIONS

A vacancy in the office of County Commissioner arising from the death, resignation or removal of such official shall, if one year or less remains in the term of office, be filled by appointment of the Governor; provided, a vacancy created by recall shall be filled as provided in Section 5.2 of this Charter. Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.

SECTION 2.8. MEETINGS**2.8.1. Organizational meeting.**

An annual organizational meeting of the Board of County Commissioners shall be held on the third Tuesday after the first Monday in November. At its organizational meeting the Board shall elect a Chair and Vice-Chair by majority vote of those Commissioners present, to serve until the next organizational meeting. The Chair shall not be eligible for consecutive re-election, and the succeeding Chair shall not be a Commissioner from the same district.

2.8.2. Special meetings.

Special meetings may be held upon the call of the chairman or two (2) or more Commissioners. Upon a call for a special meeting, the County Manager shall give public notice of the time, place and purpose of the meeting as prescribed by law. Action by the Board of County Commissioners at a special meeting shall be limited to the purpose for which the special meeting was called.

2.8.3. Location of meetings.

The Board of County Commissioners shall hold its regular and special meetings at the Viera Government Center except that it may determine, from time to time, another place or places within the County at which the Board of County Commissioners shall meet specially for the purpose of conducting its business. Notice of the time and place shall be published in a daily newspaper of general circulation in the County at least one (1) week prior to the holding of any such meeting outside the Viera Government Center. Such notice shall contain an agenda of all matters to be acted upon.

SECTION 2.9. AUTHORITY AND JURISDICTION

The Board of County Commissioners shall have, in addition to other powers and duties provided in this Charter, all jurisdiction and powers which are now and which hereafter may be granted to it by the Constitution and laws of Florida, provided that such powers shall be exercised in a manner consistent with the Charter, shall have the specific powers and duties to:

2.9.1. Appoint and reappoint a County Manager and a County Attorney by a majority vote of the total number of Commissioners, and remove the County Manager or County Attorney during a contract term by a majority vote of the total number of Commissioners.

2.9.2. Adopt such ordinances as may be necessary to carry out both the County and municipal powers and purposes.

2.9.3. Review the budgetary requests, including salaries, and make the final budgetary determinations and appropriations for:

(a) All County Governmental operations including but not limited to County management;

(b) All administrative departments of the government;

(c) Boards and special authorities and tax districts which request a portion of the millage levied for County purposes under the State Constitution;

(d) Boards and special authorities and tax districts which request a portion of such other millage as may be levied by the County for municipal service districts.

2.9.3.1. Limitations on growth in ad valorem tax revenues.

(a) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for county purposes at a millage rate which causes the budgeted revenue therefrom to the County to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of: (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

(b) Unless otherwise allowed by this subsection 2.9.3.1, the Board of County Commissioners shall not impose any ad valorem tax for municipal purposes within any municipal services taxing unit, or for district purposes of any district for which the Board has the power to fix or approve the millage rate, at a rate which, for such unit or district, causes the budgeted revenue of the unit or district from ad valorem taxes to increase over the budgeted ad valorem revenue for the previous fiscal year by more than the lesser of (1) three percent, or (2) the percentage change in the Consumer Price Index from the preceding calendar year, as measured in accordance with Section 193.155(1)(b), Florida Statutes (as that Section exists in 2008 or may thereafter be amended or transferred).

(c) Notwithstanding paragraphs (a) and (b) of this subsection, the Board of County Commissioners may impose an ad valorem tax for county, municipal or district purposes at a rate which exceeds the limitations in paragraphs (a) and (b), if a supermajority of the Board concurs in a finding that such an excess is necessary because of emergency or critical need. The finding shall set forth the ultimate facts upon which it is based, and shall be valid for a single budget year.

(d) In calculating the allowable increase in ad valorem revenues over the ad valorem revenues budgeted for the previous year under paragraphs (a) and (b) of this subsection, the Board of County Commissioners shall exclude from the anticipated revenues all revenue changes from the following kinds of property not appearing on the previous year's roll: (1) new construction; (2) additions to or demolitions in whole or in part of existing construction; (3) changes in the value of improvements that have undergone renovation to an extent of not less than 100% increase in assessed value (as measured from the last year of assessment prior to commencement of renovation); and (4) in the case of municipal service taxing units or districts, any properties added since the previous year's roll by reason of boundary changes.

(e) Nothing in this subsection shall authorize imposition of a millage rate which exceeds the rate prohibited by the constitution or general laws of Florida, or prohibit imposition of a millage rate which is required by the constitution or general laws of Florida or by any final order of a court of competent jurisdiction. Nothing in this subsection shall apply to any millage necessary to the payment of general obligation bonds in accordance with all bond covenants, or to any other millage approved by referendum of the electors, whether before or after the effective date of this subsection. (Amd. 11-4-08)

This subsection does not grant the County any power of review of the budget of the School District.

2.9.4. In addition to its internal audits and such State audits as may be required by law, cause an annual independent post-audit by a certified public accountant of any and all government operations of County Government.

2.9.5. Adopt and amend a merit system which shall include a salary schedule for all County personnel in accordance with the provisions of this Charter.

2.9.6. Adopt by a majority vote of the total number of Commissioners such rules of parliamentary procedures as shall be necessary for the orderly transaction of the business of the Board of County Commissioners.

2.9.7. Designate which non-elected officers and employees shall be bonded and fix the amount and approve the form of the bond.

2.9.8. Exercise any power of the County not lodged in any other office by this Charter.

- 2.9.9.** Impose such utility taxes as are authorized by general law only after approval of the electors of the County or the affected portion thereof at a duly called referendum.

SECTION 2.10. LEGISLATIVE PROCEDURES

2.10.1. Official actions.

The Board of County Commissioners may take official action only by the adoption of ordinances, resolutions or motions. For purposes of this section, an ordinance means a legislative action or regulation of a general or permanent nature, enforceable as a local law. A resolution means an expression of a temporary character, or a provision for the disposition of the administrative business of the Board. A majority of the total number of Commissioners shall constitute a quorum, and the concurrence of a majority of the total number of Commissioners shall be required to adopt, amend or repeal any ordinance. A majority of those present shall be required to adopt, amend or repeal a resolution or motion under the terms of this provision. All Commissioners in attendance, including the chairman or presiding officer, shall vote on all actions, except where abstention of a Commissioner from voting is permitted or required by law.

2.10.2. Code of ordinances; public records.

The Board of County Commissioners shall provide for convenient public access, at multiple locations throughout the County, including all public libraries, true copies of the minutes of meetings, ordinances, resolutions and budget documents adopted by the Board of County Commissioners. The Board shall also create and maintain a codification system for all ordinances currently in force. Such codification shall be published and made available for public inspection, copying and subscription on a continuing basis.

[Top](#)

ARTICLE 3.**EXECUTIVE BRANCH:
COUNTY MANAGER****SECTION 3.1. COUNTY MANAGER: QUALIFICATIONS**

There shall be a County Manager who shall be appointed by and who shall serve at the pleasure of the Board of County Commissioners. The County Manager shall be chosen on the basis of professional training, executive and administrative experience and qualifications. The Manager shall maintain residency within the County during the tenure of office and shall not engage in any other business or occupation without the express approval of the Board of County Commissioners.

SECTION 3.2. COMPENSATION AND TERMS OF EMPLOYMENT

The Board of County Commissioners shall establish the salary for the County Manager at a level which is commensurate with the requirements of the position and shall at least annually review the salary. Terms and conditions of compensation and employment shall be set forth in a contract.

SECTION 3.3. POWERS AND DUTIES

The County Manager shall be the head of the executive branch of County Government, and shall be responsible to the Board of County Commissioners for the proper administration of all affairs of County Government not otherwise entrusted to an elected County officer. The Manager shall attend all regular and special meetings of the Board of County Commissioners and shall have the right to participate in its discussions.

SECTION 3.4. NONINTERFERENCE BY BOARD OF COUNTY COMMISSIONERS

Except for the purpose of inquiry and information, the Board of County Commissioners, and committees of Commissioners, are expressly prohibited from interfering with the performance of the duties of any employee of the County Government who is under the direct or indirect supervision of the County Manager. Such action shall be malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

SECTION 3.5. TEMPORARY ABSENCE

The County Manager may, after notifying the Board of County Commissioners, appoint one of the other non-elected officers or department heads of the County Government to serve as temporary County Manager during the temporary absence or disability of the Manager. In the event the Manager is absent or disabled for more than thirty (30) days, the Board may appoint an acting County Manager for the duration of such absence or disability. An acting Manager shall be subject to appointment and removal in the same manner provided for appointment or removal of the Manager.

[Top](#)

ARTICLE 4.**ADMINISTRATIVE DEPARTMENTS****SECTION 4.1. ELECTED COUNTY OFFICERS**

The offices of Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections are expressly preserved as departments of the County Government under this Charter. All of the powers, duties and functions now or hereafter prescribed by the Constitution and general laws of Florida applicable to such officers in noncharter counties are preserved, except as provided by this Charter.

4.1.1. Election and compensation.

The Sheriff, Property Appraiser, Tax Collector, Clerk of the Circuit Court, and Supervisor of Elections shall be elected and compensated in the manner provided by law for such officers in noncharter counties. (Amd. 11-3-98)

4.1.2. Vacancies.

Each County officer shall be subject to removal as prescribed by the State Constitution and general law for such officers in noncharter counties. Any other vacancy in a County office arising from the death, resignation, or removal of such official shall, if one year or less remains in the term of office, be filled by appointment of the Governor; provided, a vacancy created by recall shall be filled as provided in Section 5.2 of this Charter. Unless otherwise required by the State Constitution or general law, if more than one year remains in the term of office at the time the vacancy occurs, the vacancy shall be filled by a special election. The Board of County Commissioners, after first consulting with the Supervisor of Elections, shall by resolution fix the time period for candidate qualifying, the date of the election, and the date of any runoff election. There shall be a minimum of thirty (30) days between the close of qualifying and the date of the election, and a minimum of two weeks between the election and any runoff election. Such special elections shall otherwise be governed by the applicable provisions of general law.

SECTION 4.2. DEPARTMENTS HEADED BY ELECTED OFFICERS

The departments of County Government headed by elected officers enumerated in this section are not subject to the supervision of the County Manager.

4.2.1. Office of the Clerk of Circuit Court.

The Office of the Clerk of Circuit Court shall be directed by the Clerk of Circuit Court, who shall have the powers and duties prescribed by the Constitution and laws of Florida for the office of Clerk of Circuit Court, subject to the exceptions provided in this Charter and with such additional powers and duties as may be conferred under this Charter.

4.2.2. Office of the Sheriff.

The Office of the Sheriff shall be directed by the Sheriff, and shall be responsible for the control, operation and administration of the duties of law enforcement, and all other functions and duties now prescribed by the Constitution and laws of Florida for the office of Sheriff, subject to the exceptions provided in this Charter and with such additional powers and duties as may be conferred under this Charter.

4.2.3. Office of the Property Appraiser.

The Office of the Property Appraiser shall be directed by the Property Appraiser, and shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of Property Appraiser, subject to the exceptions provided in this Charter and with such additional powers and duties as may be conferred under this Charter.

4.2.4. Office of Supervisor of Elections.

The Office of the Supervisor of Elections shall be directed by the Supervisor of Elections, and shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of Supervisor of Elections, subject to the exceptions provided in this Charter and with such additional powers and duties as may be conferred under this Charter.

4.2.5. Office of Tax Collector.

The Office of the Tax Collector shall be directed by the Tax Collector, and shall be responsible for carrying out all functions, duties and requirements prescribed by the Constitution and laws of Florida for the office of Tax Collector, subject to the exceptions provided in this Charter and with such additional powers and duties as may be conferred under this Charter.

SECTION 4.3. OTHER INITIAL DEPARTMENTS

All other departments existing upon adoption of this Charter are recognized and shall continue until modified or abolished by the Board of County Commissioners.

SECTION 4.4. COUNTY ATTORNEY/ DEPARTMENT OF LEGAL SERVICES

There shall be a department of legal services directed by an attorney appointed by the Board of County Commissioners. The Board of County Commissioners shall have the power and authority to employ or contract for other necessary legal services when necessary to carry out the duties and responsibilities of County Government.

SECTION 4.5. DEPARTMENT DIRECTORS AND SPECIFIED ASSISTANTS

The director of each department shall be the principal officer of the department.

4.5.1. Departments supervised by County Manager.

Directors of departments not headed by an elected County officer or the County Attorney, together with those senior assistants to such directors specified by ordinance, shall be appointed by the County Manager, subject to confirmation by a majority vote of the Board of County Commissioners, and shall serve at the pleasure of the County Manager.

4.5.2. Departments headed by elected officers.

Each elected County officer shall be the appointing and discharging authority for all employees and senior assistants of the department headed by that officer.

SECTION 4.6. ESTABLISHMENT AND CHANGES OF DEPARTMENTS; ADDITIONAL POWERS AND FUNDING

4.6.1. No transfer from County Officers.

A power of function existing in any County office by virtue of the State Constitution or general law and placed by this Charter under a County officer may not be further transferred or removed except by Charter amendment. In all other cases the Board of County Commissioners may by ordinance make changes in any or all department organizations including combinations, deletions and creation of departments or divisions or transfer of responsibility between departments and divisions.

4.6.2. Budget approval; additional duties.

The budget of each department headed by an elected County officer shall be fixed and approved by the Board of County Commissioners, subject to the approval and review provided by general law to officers of like powers and functions in noncharter counties. No additional duties requiring the expenditure of funds shall be assigned under this Charter to any department headed by an elected County officer, unless funds are appropriated for that purpose or the officer consents to assume such duties without additional funding.

[Top](#)

ARTICLE 5.**POWERS RESERVED TO THE PEOPLE:
INITIATIVE AND RECALL; LIMITATIONS ON INDEBTEDNESS AND AD VALOREM TAXATION****SECTION 5.1. INITIATIVE**

The electors of Brevard County shall have the right to initiate County ordinances in order to establish new legislation that is not in conflict with the State Constitution, general law or this Charter, and to amend or repeal existing ordinances when such amendments or repeal are not in conflict with the State Constitution or general law, upon petition signed by a number at least equal to five percent (5%) of electors qualified to vote in the last preceding general election; provided that the number shall contain at least five percent (5%) of the qualified electors in each of at least three Commission election districts.

5.1.1. Procedure for Petition.

The sponsor of an initiative shall, prior to obtaining any signatures, submit the text of a proposed ordinance or Charter amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signatures will be affixed and obtain a dated receipt therefor. The allowable period for obtaining signatures on the petition shall be completed not later than nine (9) months after the initial receipt of the petition by the Supervisor of Elections. The sponsor shall thereupon submit signed and dated forms to the Supervisor of Elections and upon submission shall pay all fees required by general law. The Supervisor of Elections shall within sixty (60) days verify the signatures thereon, or specify a reason for the invalidity of each rejected signature if the petition is rejected for insufficiency of the number of valid signatures. If the petition is rejected for insufficiency of the number of signatures, the sponsor shall have an additional thirty (30) days within which to submit additional signatures for verification. The Supervisor of Elections shall, within thirty (30) days verify the additional signatures. In the event sufficient signatures are still not acquired, the petition initiative shall be rendered null and void and none of the signatures may be carried over onto another identical or similar petition.

5.1.2. Consideration by Board of County Commissioners.

Within sixty (60) days after the requisite number of names has been verified by the Supervisor of Elections and reported to the Board of County Commissioners, the Board of County Commissioners shall give notice and hold a public hearing on the proposed ordinance according to law and vote on it. If the Board fails to enact the proposed ordinance, it shall by resolution, call a referendum on the question of the adoption of the proposed ordinance to be held at the next general election occurring at least forty-five (45) days after the adoption of such resolution. If the question of the adoption of the proposed ordinance is approved by a majority of those registered voters voting on the question, the proposed ordinance shall be declared by resolution of the Board of County Commissioners to be enacted and shall become effective on the date specified in the ordinance, or if not so specified, on January 1 of the succeeding year. The Board of County Commissioners shall not amend or repeal an ordinance adopted by initiative, without the approval of a majority of the electors voting at a referendum called for that purpose.

5.1.3. Limitation on ordinances by initiative.

The power to enact, amend or repeal an ordinance or amend this Charter by initiative shall not include ordinances or provisions relating to the existing County budget, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.

SECTION 5.2. RECALL

The County Commissioners shall be subject to recall as provided by general law. Any elected County officer named in Section 4.2 of this Charter may be recalled in the manner provided by general law for removal of a County Commissioner of a charter county. A successor to the unexpired term of any recalled commissioner or elected County officer shall be elected in the manner provided by general law for filling of vacancies in office after recall in charter counties.

SECTION 5.3. LIMITATION ON DEBT OR ITS EQUIVALENT**5.3.1. Bonds.**

In addition to the limitations on general obligation debt imposed by the State Constitution, the issuance by the County of notes, bonds or other instruments of indebtedness evidencing borrowing to be paid back in part or in full by non-ad valorem tax revenues received by the County, in an amount which, individually or in combination with other issues for the same

project authorized within the preceding two (2) years, exceeds \$15,000,000.00 (including administrative costs of the issue), shall be authorized only after approval by a majority vote of the electors at a special election called for that purpose or in conjunction with any regular election. No proceeds of instruments of indebtedness shall be issued to finance current operations of County Government, except that part of current expenses directly allocable to capital projects. Nothing in this section prohibits issuance of tax anticipation notes payable in one year or less.

5.3.2. Lease-purchase contracts.

Lease-purchase instruments of indebtedness shall be limited to the acquisition of equipment or other tangible property having a value of not more than \$1,000,000.00 per individual contract. Lease-purchase instruments of indebtedness shall not extend longer than the useful life of such equipment or tangible property, and shall not pledge, directly or indirectly, any ad valorem revenues of the County.

5.3.3. Exceptions.

The limitations in the foregoing subsections do not apply to projects mandated by judicial decree, self-liquidating projects, utility or other enterprise funds, road projects funded by gasoline taxes, or to the refinancing of any existing instruments of indebtedness or certificates of participation to reduce the cost of debt service.

Notwithstanding the limitations of this Article, whenever a disaster or emergency has been declared by the Governor of Florida or the President of the United States, the Board of County Commissioners may authorize the issuance of notes, bonds or other instruments of indebtedness (including lease-purchase agreements and covenants to budget) to the full extent permitted by the State Constitution and general laws of Florida, for the sole purpose of repair or reconstruction of infrastructure or capital facilities of the County damaged by flood, tornado, hurricane, act of war, act of God, or other declared disaster or emergency.

5.3.4. Indexed ceilings.

The maximum amounts fixed in this Article for the issuance of bond or lease-purchase undertakings not approved at referendum shall be increased or decreased from time to time in proportion to the increase or decrease based on a generally accepted consumer price index to be designated by Ordinance.

SECTION 5.4. PRESERVATION OF EXISTING MILLAGE LIMITATIONS

5.4.1. Levy of new non-ad valorem special assessments.

Brevard County shall not levy new non-ad valorem special assessments (excluding Municipal Service Benefit Units) without the approval of a majority of the electors residing within the boundaries of the district or other area of the County where the special assessments are proposed to be levied, voting thereon at a general election or special election called for purposes of such approval. (Amd. 11-3-98)

5.4.2. Truth in Taxation.

- (a) In any year in which the Board of County Commissioners tentatively adopts a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to Florida law, the Board of County Commissioners shall be required to publish a notice in a local general circulation newspaper, with additional information to explain any increase in ad valorem tax revenue to be spent in the proposed budget over those levied in the prior fiscal year. The advertisement shall be published in a newspaper of general circulation published at least five days a week. This advertisement shall be no less than one-quarter page in size and both the headline and the actual percentage increase proposed total ad valorem tax proceeds in the advertisement shall be in a type no smaller than 18 points. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. Such advertisement shall take place within 15 days after the meeting adopting the tentative budget and shall state the County's intent to finally adopt a millage rate and budget. The public hearing to finalize the budget and adopt a millage rate shall be held not less than two days or more than five days after the day that the advertisement is first published. The advertisement shall be substantially in the following form:

**BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS
DISCLOSURE OF TAX INCREASE
PURSUANT TO THE BREVARD COUNTY CHARTER**

1. The Brevard County Board of County Commissioners has tentatively adopted a proposed aggregate millage rate of _____ which is an increase over the aggregate roll-back rate of _____. This increase is a _____ percent change over the aggregate roll-back rate, yielding \$ _____ in additional revenue over the prior year's proceeds as reflected on the Certificate of Taxable Value.

2. The proposed aggregate millage rate will also yield an additional \$_____ in revenue as a result of the taxable value of new construction which is not included in the rolled-back calculation, pursuant to Section 200.065(1), Florida Statutes.

The sum total of additional ad valorem revenue proposed, as reflected in Sections 1 and 2 above, is \$ _____. This represents an actual increase in proposed revenue of the following percentage:

ACTUAL PERCENTAGE INCREASE IN PROPOSED TOTAL AD VALOREM TAX PROCEEDS OVER THE PRIOR YEAR _____%.

- (b) In the event a new taxing district is created, the percentage increase in the total tax proceeds over the prior year will increase and therefore the notice shall contain a notation to explain that contribution to the total increase expressed as a percentage.
- (c) If new unfunded state mandates caused an increase in the total tax levy over the prior year, the notice shall contain a notation to indicate that cost impact and its contribution to the total increase expressed as a percentage. (Amd. 11-7-2004)

SECTION 5.5. CREATION OR ENLARGEMENT OF MUNICIPAL SERVICE TAXING UNITS

Prior to either establishing a new Municipal Service Taxing Unit or enlarging the boundaries of an existing Municipal Service Taxing Unit, the County Commission may hold a non-binding referendum within the area where the MSTU is to be established. The County Commission shall comply with all relevant provisions of general law relating to the calling, notice and timing of such a referendum. (Amd. 11-7-00)

SECTION 5.6. PUBLIC PARTICIPATION AND INCLUSION

All citizens and taxpayers are entitled to have access to their elected officials, to present their grievances to their County Government, and to participate in County Government in an effort to guide the future of the community. When making appointments of individual citizens who desire to participate in their government to any decision making, regulatory or advisory board or committee, including the Charter Review Commission, the Board of County Commissioners shall make such appointments based on competence, expertise or merit of the prospective appointee. When appointments to all of the County's boards and committees are taken as a whole, the appointments should include citizens from all segments of society in Brevard County, reflecting the differing viewpoints, gender, life experiences, professions, races, and ethnic background of Brevard County society and in an effort to provide balance with regard to race, gender or ethnic background. (Amd. 11-7-00)

Top

ARTICLE 6.

SPECIAL DISTRICTS AND AUTHORITIES

As provided in Article VIII, §1 (g) and §6 of the State Constitution, the Board of County Commissioners may by ordinance amend or repeal any local or special act of the Legislature applicable solely to the unincorporated areas of the County.

ARTICLE 7.
MISCELLANEOUS PROVISIONS

SECTION 7.1. EFFECTIVE DATE

This Charter shall become law when approved by a majority of those electors voting on the matter in a referendum to be held in the County in November 1994 under the provisions of the Constitution and laws of Florida. The Charter Government shall assume all powers and duties provided by this Charter on the first day of January 1995, the effective date of this Charter.

SECTION 7.2. TRANSITION

7.2.1. Continuation of laws, ordinances and contracts.

Unless expressly provided otherwise in this Charter, the adoption of this Charter shall not affect any existing contracts or obligations of Brevard County; the validity of any of its laws, ordinances, regulations, and resolutions; or the term of office of any elected County officer, whose term shall continue as if this Charter had not been adopted.

7.2.2. Initial County Commissioners.

The persons comprising the Brevard County Board of County Commissioners on the effective date of this Charter shall become the initial members of the Board of County Commissioners of the charter government and shall perform the functions thereof until the expiration of their terms or until qualification of their successors as provided by law.

7.2.3. Initial County Officers.

The persons holding office as the Clerk of Circuit Court, Sheriff, Property Appraiser, Tax Collector and Supervisor of Elections of Brevard County shall constitute the County Officers of like name recognized under this Charter and shall perform the functions thereof until the expiration of their respective terms of office or until qualification of their respective successors as provided by law. All duties and employees of the elected County Officers shall, on the effective date of this Charter, continue as deputies and employees of the respective elected officers under this Charter, and all existing wages, benefits, agreements and conditions of employment of such deputies and employees shall continue in effect. The County Administrator and County Attorney employed on the effective date of this Charter shall serve as the County Manager and County Attorney respectively, subject to termination and replacement as provided herein.

7.2.4. Employee continuation.

All employees of the former County Government shall on the effective date of this Charter become employees of the County Government created by this Charter. All existing wages, benefits, collective bargaining certifications and agreements, contracts and conditions of employment shall continue, until modified by lawful action of the Board of County Commissioners.

7.2.5. Continuation of agencies and advisory bodies.

All existing appointments or designations of nongovernmental agencies or corporations to act as official agencies of the County shall remain in full force and effect in accordance with the terms of such appointment and the provisions of this Charter. All members of advisory boards, resource groups or committees appointed for terms expiring after the effective date of this Charter shall continue to serve their terms without necessity of reappointment under this Charter.

7.2.6. Outstanding bonds.

All bonds, revenue certificates, and other financial obligations of the county outstanding on the effective date of this Charter shall be obligations of the charter government. All actions taken by the former government relating to the issuance of such obligations are hereby ratified and confirmed. Payment of such obligations and the interest thereon shall be made solely from and charged solely against funds derived from the same sources from which such payment would have been made had this Charter not taken effect.

SECTION 7.3. CHARTER AMENDMENT

7.3.1. Amendment by the Board of County Commissioners.

The Board of County Commissioners, upon the concurrence of not less than four members, shall have the authority to propose amendments to this Charter not inconsistent with the State Constitution and with general law.

7.3.2. Amendment by petition.

Amendments to this Charter may be proposed by a petition signed by at least four percent (4%) of the electors from each County Commission District, provided that any such amendment shall embrace but one subject matter directly connected therewith in the manner set forth in subsections 7.3.2.1 through 7.3.2.4. below.¹

- 7.3.2.1. Each amendment shall embrace but one subject and matter directly connected therewith. The amendment shall not extend to existing budgets, existing debt obligations, existing capital improvement obligations, salaries of non-elected County officers and employees, the collection of taxes or rezoning of less than five per cent (5%) of the total land area of the County.
- 7.3.2.2. The sponsor of the measure shall register as a political committee as required by general law, and shall submit a petition setting forth the ballot title, substance and text of the proposed amendment to the Supervisor of Elections. The sponsor must then obtain the signatures on the petition of at least 1% of the electors from each County Commission district and then resubmit the signed petitions to the Supervisor of Elections for verification that the electors signing the petition are qualified voters. When the Supervisor of Elections has verified the signatures, the Supervisor shall report such verification to the Board of County Commissioners.
- 7.3.2.3. Once the signatures are verified, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
- 7.3.2.4.² If at least two members of the panel find that the proposed amendment is consistent with the Florida Constitution, general law and this Charter, then such consistency shall be presumed and the petition shall be returned to the sponsor who must thereafter obtain enough signatures from electors in each county commission district to bring the total number of petition signatures to at least 4% of the qualified electors in each county commission district. The verification procedures for signatures on initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed.

Since this charter does not provide the Board, or the Petitioner with an avenue to determine whether proposed amendments are consistent with the State Constitution or general law, the proposed amendment will be governed by Section 1.3 and Section 1.6 of this charter, and the proposed amendment will be placed on the ballot for approval or rejection. The sponsor of an amendment shall, prior to obtaining signatures, submit the text of the proposed amendment to the Supervisor of Elections, with the proposed ballot summary and the form on which signature will be affixed. The procedures for initiative petitions set forth in Section 5.1.1 of this Charter shall thereafter be followed. The power to amend this Charter by initiative shall not extend to existing budgets, existing debt obligations, existing capital improvement programs, salaries of non-elected County officers and employees, the collection of taxes, or the rezoning of less than five percent (5%) of the total land area of the County.

7.3.3. Amendment referendum.

The Board of County Commissioners will cause any Charter amendment proposed under section 7.3.1 or 7.3.2 to be submitted to the electors for their approval or rejection. Upon receipt of the official certification from the Supervisor of Elections that the initiative requirements have been met, the Board will, within 30 days, establish the referendum date. The proposed amendment will be placed on the ballot at a special election held concurrent with the next countywide election, or at any earlier special election called for that purpose. If the Board refuses to comply with Section 7.3.2 or refuses to place the proposed amendment on the ballot as required by this section of the charter, the Board's action may be construed as interfering with the right of the people to petition and may be considered an act of malfeasance within the meaning of Article IV, Section 7(a) of the State Constitution.

Notice of said referendum, together with the language of the proposed amendment, shall be published once a week for four (4) consecutive weeks in a newspaper of general circulation in the county, the first publication being not more than forty-five (45) days prior to the referendum. Passage of proposed amendments shall require approval of a majority of electors voting in said election. (Amd. 11-7-00)

SECTION 7.4. CHARTER REVIEW

Not later than July 1 of the year 1997 and of every sixth year thereafter, the Board of County Commissioners shall appoint a Charter Review Commission to review the Charter of the County. Each Charter Review Commission shall consist of fifteen (15) persons, with not less than two (2) members residing in each Commission district. The Commission shall otherwise be appointed in the manner provided by law for the appointment of charter commissions in counties without charters. The Commission shall be funded by the Board of County Commissioners and shall be known as the "Brevard County Charter Review Commission." It shall, within one (1) year from the date of its first meeting, present to the Board of County Commissioners its recommendations for amendment of the Charter or its recommendation that no amendment is appropriate. If amendment is to be recommended, the Charter Commission shall conduct three (3) public hearings, at intervals of not less than ten (10) days, immediately prior to the transmittal of its recommendations to the Board of County Commissioners. The Board of County Commissioners shall schedule a referendum on the proposed charter amendments concurrent with the next general election. The Charter Review Commission may remain in existence until the general election for purposes of conducting and supervising education and information on the proposed amendments.

7.4.1. Independent Review of Proposed Charter Amendments.

1. For any proposed amendment sponsored by the County Commission or the Charter Review Commission, the County Commission, at the county's expense, shall empanel a panel of three persons to determine whether the proposed amendment and ballot language embraces one subject only and is consistent with the Florida Constitution, general law and this Charter. The persons serving on the panel shall have demonstrated experience in Florida local government law and shall either be licensed to practice law in the State of Florida or have retired from a Florida law practice or the Florida judiciary within the past five years.
2. If at least two members of the panel find that the proposed amendment embraces only one subject and is consistent with the Florida Constitution, general law and this Charter, the County Commission shall place the proposed charter amendment on the ballot for consideration at a referendum at a special election held concurrently with the next countywide election or at an earlier special election called for that purpose. Notice of the election shall conform to the requirements set forth in the last paragraph of section 7.3.3. in this Charter. Passage of a proposed charter amendment shall require approval by a majority of the registered electors voting in the special election.

SECTION 7.5. SEVERABILITY AND VALIDITY

If any part of this Charter is held invalid or unconstitutional, the remainder thereof shall remain in full force and effect. For purposes of the method of election or manner of choosing, and provision for recall or filling of vacancies in office of the County Commissioners and other County officers, said offices shall be deemed to be created by this Charter under the powers reserved to the people of Brevard County by Article VIII, §1(d) and (e) of the State Constitution, but in all other respects the County officers have all of the powers, duties and responsibilities of officers in noncharter counties elected under the provisions of general law.

Footnotes

¹ The wording of section 7.3.2 presented here is a combination of the amendment wording set forth in County Commission Corrected Resolutions 2000-268 and 2000-269, both of which received referendum approval. The precise language of the two resolutions as approved by the voters has been combined in this form by the editors in an attempt to preserve the actual text as well as the intent and meaning of the text in both approved amendments.

² The editors have renumbered this subsection from (c), which is the designation given to this paragraph in County Commission Resolution 2000-268, to 7.3.2.4, which is referenced at the end of the first sentence of section 7.3.2 in Corrected Resolution 2000-268. This change corrects an apparent scrivener's error in the text of the original Corrected Resolution 2000-268 in which it appears that subparagraph (c) should have been numbered as subsection 7.3.2.4.

[Top](#)

ARTICLE 8.**SCHOOL BOARD OF BREVARD COUNTY****SECTION 8.1. ELECTION OF SCHOOL BOARD MEMBERS**

Members of the School Board of Brevard County elected after January 1, 1999, shall be elected on a single-member representation basis as follows: The school district shall be divided into school board residence areas, one for each seat on the school board, the areas together covering the entire school district and being as nearly equal in population as is practicable, as provided by general law. Each school board member shall reside in one residential area at the time of qualifying for office and shall continue to reside in the area for which the member was elected throughout the term of office as a qualification to hold the office. School board members shall be nominated and elected only by the qualified electors who reside in the same residential area as the member. All members shall be elected for four-year terms, staggered. This provision shall not affect the members of the school board who are in office on January 1, 1999, who shall serve the remainder of their terms of office as if this provision had not been adopted. (Amd. 11-3-98)