

ORDINANCE NO. 2022-__

2 AN ORDINANCE RELATING TO TAXATION IN ORANGE
4 COUNTY, FLORIDA; PROVIDING A SHORT TITLE AND
6 LEGISLATIVE FINDINGS; LEVYING ON ALL TAXABLE
8 TRANSACTIONS A __ PERCENT (__%) CHARTER COUNTY
10 AND REGIONAL TRANSPORTATION SYSTEM SALES
12 SURTAX (“TRANSPORTATION SURTAX”) FOR A PERIOD OF
14 _____ (__) YEARS PURSUANT TO SECTIONS 212.054 AND
16 212.055(1), FLORIDA STATUTES; CREATING A SEGREGATED
18 TRUST FUND INTO WHICH ALL TRANSPORTATION SURTAX
20 PROCEEDS SHALL BE DEPOSITED; PROVIDING THAT THE
TRANSPORTATION SURTAX WILL TAKE EFFECT ONLY
UPON APPROVAL BY THE ELECTORATE; CALLING A
REFERENDUM; PROVIDING BALLOT LANGUAGE;
REQUIRING PUBLIC NOTICE OF SUCH REFERENDUM; AND
PROVIDING FOR AMENDMENTS, SEVERABILITY,
CODIFICATION, AN EFFECTIVE DATE, AND EXPIRATION OR
“SUNSET” DATES.

22 WHEREAS, section 212.055(1), Florida Statutes, provides for the levy of a Charter
24 County and Regional Transportation System Sales Surtax (“Transportation Surtax”) through
enactment of an ordinance, subject to approval by a majority of the countywide electors voting in
a referendum on the levying of such Transportation Surtax; and

26 WHEREAS, the Orange County Board of County Commissioners (the “Board”) finds
28 that there is a need for a dedicated revenue source in order to adequately address the critical
30 transportation and transit needs of Orange County, Florida (the “County”) and that such revenue
source would be in the best interests of the public and would benefit present and future
generations; and

32 WHEREAS, to obtain such dedicated revenue source to address the County’s critical
34 transportation and transit needs, the Board desires that the question of a levy of a Transportation
36 Surtax, as further described below, be considered by the countywide voters at the General
Election on November 8, 2022; and

38 WHEREAS, to ensure that the revenue generated by a Transportation Surtax will be
40 adequate to address the County’s critical transportation and transit needs, the Board desires for
42 the levy of the Transportation Surtax to remain in effect for a period of _____ (__) years
ending on December 31, 20__, at which time the Transportation Surtax shall automatically
sunset and expire; and

44 **WHEREAS**, if the Transportation Surtax is approved by referendum at the General
Election on November 8, 2022, the proceeds of the Transportation Surtax shall be expended only
for those purposes authorized in section 212.055(1), Florida Statutes.

46

**BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
48 ORANGE COUNTY, FLORIDA:**

50 **Section 1. Short Title.** This article shall be known and may be cited to as the
“Orange County Charter County and Regional Transportation System Surtax Ordinance.”

52

54 **Section 2. Legislative Findings.** The Board of County Commissioners of Orange
County, Florida (the “Board”), hereby makes the following legislative findings and declares them
to be, in part, the legislative, legal, and public policy basis for the enactment of this Ordinance:

56

58 (a) It is necessary and desirable to promote and protect the health and safety of the
traveling public in Orange County, Florida (the “County”) and to maintain and improve the
quality of life and economic prosperity of the citizens of the County by providing safe and
adequate road, transportation, and transit facilities.

62 (b) The need for adequate public transit, roadway improvements, public safety
measures including lighting, pedestrian and cyclist safety measures, and road resurfacing in the
County has continued to increase and is a matter of great public importance.

66 (c) Orange County Mayor, Jerry L. Demings, initiated a study of the County’s
transportation needs based on an analysis of existing County revenues, projections of future
county-wide transportation and transit obligations and needs, and community and citizen input.

70 (d) In order to solicit community input, starting in 2019, the County hosted and
attended over 200 town hall and community meetings in order to gather an understanding of the
transportation and transit needs of the County’s residents and over 11,000 members of the public
contributed their input regarding transportation and transit system needs and improvements for
Orange County.

76 (e) At the direction of the Orange County Mayor, County staff conducted thorough
assessments of transportation deficiencies and related funding needs from 2019 through 2040
including capital infrastructure, transit operations and maintenance and program-based
improvements, cross-jurisdictional needs, maintenance, and capacity on roadways with a focus
on those needs that will not be met through current funding sources.

82 (f) Due to the COVID-19 pandemic, Mayor Demings paused the County’s efforts
related to the Transportation Surtax in April of 2020, as the County faced unprecedented
economic and public health challenges.

84

86 (g) In the fall of 2021, with the County’s economic recovery trending upward and
87 seeing a return of tourism to Orange County, Mayor Demings directed that the County
88 recommence its efforts to engage with the community regarding the Transportation Surtax,
89 conducting six interactive open house meetings, one within each district of the County, during
90 which residents were encouraged to interact with transportation and transit subject matter experts
91 on their current transportation needs and priorities.

92 (h) The County has taken under advisement the input of its citizens and community
93 partners, which, since 2019, has included approximately 250 meetings or “touch points”
94 involving 10,000 participants; County Commissioner and staff involvement and input; 6,300
95 comments and recommendations; and 16,000 completed surveys.

96 (i) Following this extensive community engagement process, the County has updated
97 the projects and priorities in the County’s Transportation Initiative Report accordingly.

98 (j) Based on the various assessments, community and citizen input, and meetings
99 with local municipalities and public transit leadership over the last three years, the Board finds
100 that current funding sources are insufficient to meet the County’s transportation and transit needs
101 and that a ____-cent Transportation Surtax will provide a dedicated source of revenue to meet
102 those unmet needs.

103 **Section 3. Levy of Transportation Surtax.** Pursuant to section 212.055(1), Florida
104 Statutes, and subject to approval by a majority of the electors of Orange County, Florida voting
105 in a referendum at the General Election on November 8, 2022, there is hereby levied, for a period
106 of _____ (__) years, commencing at 12:01 A.M. on January 1, 2023, and expiring at 11:59 P.M.
107 on December 31, 20__, a _____ percent (__) Charter County and Regional Transportation
108 System Sales Surtax (“Transportation Surtax”) on all transactions taxable pursuant to section
109 212.054(2), Florida Statutes, subject to applicable exceptions as further provided by Florida law.

110 **Section 4. Transportation Improvement Trust Fund.** There is hereby created the
111 Transportation Improvement Trust Fund (“Trust Fund”) into which all Transportation Surtax
112 proceeds shall be deposited. The designation and establishment of the Trust Fund, and the
113 establishment and maintenance of all accounts and subaccounts established within the Trust
114 Fund, shall be consistent with generally accepted government accounting principles and Florida
115 law. Cash and investments required to be accounted for in the Trust Fund may not be
116 commingled with any other funds, including other transportation or transit funds.

117 **Section 5. Use of Transportation Surtax Proceeds.** Transportation Surtax proceeds
118 shall be collected, applied, disbursed, and expended only for authorized transportation and transit
119 purposes, as deemed appropriate by the Board in accordance with applicable law including,
120 specifically, sections 212.054 and 212.055(1), Florida Statutes.

128 **Section 6. Orange County Transportation Initiative Report.**

130 (a) **Adoption of the Orange County Transportation Initiative Report.** The Orange
County Transportation Initiative Report (the “Report”) shall be adopted by the Board by
132 resolution on the same date of this Ordinance’s enactment.

134 (b) **Required Report Contents.** The Report shall, at all times, contain:

136 (1) A list of projects separated into distinct funding categories;

138 (2) A Transportation Surtax proceed allocation methodology for the funding
of projects in each distinct funding category;

140 (3) A requisite technical committee that shall: (i) review the status of projects
142 submitted by each jurisdiction; (ii) review the approved projects and ensure they are compatible
and coordinated amongst various jurisdictions; and (iii) identify opportunities for collaboration
144 on joint projects;

146 (4) A requisite citizens oversight board that shall: (i) ensure accountability and
transparency in the expenditure of sales tax proceeds; (ii) ensure that the County, municipalities,
148 LYNX, and other funding recipients are spending funds appropriately, timely, and in full
compliance with all applicable laws; and (iii) request and review audits of the transportation
150 program by the Orange County Comptroller; and

152 (5) A Transportation Surtax management process that ensures that project
prioritization and any proposed revisions to the project lists are completed in a manner that: (i)
154 uses a data-driven and needs-based approach through the use of objective criteria in the
prioritization of transportation improvement projects throughout the County; (ii) is flexible
156 enough to address shifting and emerging needs over the _____ (___) year period for which the
Transportation Surtax will be levied; and (iii) is adaptive to new transportation and transit
158 technologies and innovations as they are developed.

160 **Section 7. Transit and Municipal Interlocal Agreements.** To be valid, any transfer
of Transportation Surtax proceeds to a participating municipality or transportation authority shall
162 be pursuant to an interlocal agreement required in section 212.055(1)(d)4., Florida Statutes. Such
interlocal agreements shall include:

164 (1) A specific list of purposes for which the Board deems the participating
166 municipality or transportation authority’s use of the Transportation Surtax proceeds as
appropriate;

168

170 (2) A grant of authority to the County and the Orange County Comptroller to
access, and audit, the participating municipality or transportation authority's transportation
172 and/or transit expenditures including, but not limited to, expenditures of any Transportation
Surtax proceeds provided to such municipality or transportation authority;

174 (3) Detailed performance and financial reporting requirements for projects
funded, in whole or in part, by Transportation Surtax proceeds, including any and all projects for
176 which Transportation Surtax proceeds are used as matching funds;

178 (4) Detailed reporting requirements for all expenditures, including operating
costs, which are funded, in whole or in part, by Transportation Surtax proceeds; and

180 (5) A commitment from any participating transportation authority that any
182 Transportation Surtax funds being provided to such transportation authority be used for the
benefit of Orange County, Florida, as is contemplated in section 212.055(1)(d)4., Florida
184 Statutes.

186 **Section 8. Auditing.** The Orange County Comptroller shall complete routine
financial audits of any and all expenditures of the Transportation Surtax proceeds.

188 **Section 9. Referendum Called.** A referendum election is hereby called and ordered
190 to be held in Orange County at the time of the next general election to be held on November 8,
2022, to determine whether the Board should levy a ____ (____) cent Transportation Surtax to be
192 collected, applied, disbursed, and expended only for authorized transportation and transit
purposes, in accordance with applicable law including, specifically, sections 212.054 and
194 212.055(1), Florida Statutes.

196 **Section 10. Notice of Referendum.** Pursuant to section 100.342, Florida Statutes, a
Notice of Referendum shall be published twice in the *Orlando Sentinel*, a newspaper of general
198 circulation in the County. The publications shall occur once in the fifth week and once in the
third week prior to the week which includes November 8, 2022.

200 **Section 11. Official Ballot.** Ballots to be used in the referendum shall contain a
202 statement of the description of the proposed issue in substantially the following form:

BALLOT
Orange County, Florida

Charter County and Regional Transportation System Surtax

Shall a Charter County and Regional Transportation System Surtax at the rate of ___ percent (_%) be levied in Orange County, Florida for a period of ___ years with revenue deposited into a designated trust fund to be dedicated exclusively for those transportation and transit improvement uses authorized by law, as deemed appropriate by the Board of County Commissioners?

___ FOR the ___-cent sales tax

___ AGAINST the ___-cent sales tax

204

Section 12. Spanish Translation. The above ballot question shall additionally appear on the ballot in Spanish and the County Attorney and Supervisor of Elections are requested to authorize, and directed to prepare, an accurate Spanish translation to be included on the ballot.

206

208

Section 13. Payment of Referendum Expenses. The Board authorizes the payment of lawful expenses associated with conducting the referendum, as well as the cost of communicating factual information regarding the referendum to the public to the extent permitted by section 106.133, Florida Statutes. The Orange County Comptroller is hereby authorized and directed to disburse the funds necessary to pay such expenses.

210

212

214

Section 14. Repeal Upon Electorate Disapproval. If the levy of the Transportation Surtax is not approved by a majority of the electors of Orange County voting thereon in the referendum at the General Election on November 8, 2022, this Transportation Surtax Ordinance shall expire and be deemed repealed in its entirety on December 31, 2022, without further action by the Board.

216

218

220

Section 15. Sunset. The Transportation Surtax shall sunset and expire at 11:59 P.M. on December 31, 20___, without further action by the Board, at which time the Transportation Surtax levied hereunder shall be deemed repealed, terminated, and of no further force and effect, except that the requirements of this Ordinance relating to the administration, use, or oversight of Transportation Surtax proceeds shall survive the expiration of the Transportation Surtax, and shall be fully enforceable in a court of competent jurisdiction.

222

224

226

228

Section 16. Amendments. No amendment, revision, or repeal of this Ordinance, or

230 reduction in the rate of the Transportation Surtax, may take effect if it would materially impair
231 the contract rights of the owners of any bonds, notes, or other instruments of indebtedness
232 payable, in whole or in part, directly or indirectly, from the proceeds of the Transportation
Surtax.

234 **Section 17. Severability.** If any portion of this Ordinance is determined by any court
to be invalid, the invalid portion shall be stricken, and such striking shall not affect the validity of
236 the remainder of this Ordinance.

238 **Section 18. Codification.** The publisher of the Orange County Code is directed to
codify only sections 1 through 8 and section 15 of this Ordinance. The remaining sections shall
240 not be codified, but shall be in full force and effect as provided by law. Further, the publisher is
authorized and directed to renumber and re-letter the several sections, subsections, and
242 paragraphs, and subparagraphs, and to substitute words such as “chapter,” “article,” “division,”
for such words as “ordinance,” all as may be necessary or useful to ensure proper codification.

244 **Section 19. Effective date.** This Ordinance shall become effective as provided by law.

246 **ADOPTED THIS ____ DAY OF _____, 2022.**

248 **ORANGE COUNTY, FLORIDA**
250 By: Board of County Commissioners
252 By: _____
254 Jerry L. Demings
Orange County Mayor

256 ATTEST: Phil Diamond, CPA, County Comptroller
As Clerk of the Board of County Commissioners

258 By: _____
260 Deputy Clerk