

Charter For  
The Metropolitan Government of  
Fayetteville-Lincoln County,  
Tennessee

**NOVEMBER 9, 2007**

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## **ARTICLE 1. GENERAL PROVISIONS**

### **Section 1.01. Consolidation of County and Cities; creation of Metropolitan Government; Name.**

The governmental and corporate functions of the City of Fayetteville, Tennessee, a municipal corporation, is hereby consolidated with the governmental and corporate functions of Lincoln County, Tennessee, to form a new Metropolitan Government. This consolidation is pursuant to power granted by Article XI, Section 9 of the Tennessee Constitution, as amended, and the statutes codified in Tennessee Code Annotated, Title 7.

The Metropolitan Government shall be a public corporation, with perpetual succession, capable of suing and being sued, and capable of purchasing, receiving and holding property, real and personal, and of selling, leasing or disposing of the same to the same extent as other governmental entities. The Metropolitan Government shall perform all, or substantially all, of the governmental and corporate functions previously performed by the City of Fayetteville and Lincoln County. The Metropolitan Government shall replace and supersede the governments of the City of Fayetteville and Lincoln County. The name of the consolidated government shall be "The Metropolitan Government of Fayetteville-Lincoln County," herein called the "Metropolitan Government."

### **Section 1.02. Area of Metropolitan Government.**

The area embraced in the Metropolitan Government shall be the total area of Lincoln County, Tennessee, fixed and established.

### **Section 1.03. Services districts and their areas.**

The Metropolitan Government shall have a General Services District and an Urban Services District and may have one or more Special Services Districts. The General Services District shall consist of the total area of Lincoln County as established on December 31, 2008, and as may be subsequently modified by statute. The Urban Services District shall consist initially of the total area of the City of Fayetteville as established at the time of the filing of this Charter with the Lincoln County Election Commission. The Metropolitan Council may, by ordinance, create one or more Special Services Districts outside of the boundaries of the Urban Services District to provide one or more, but not all, of the services provided to the Urban Services District that are not provided to the General Services District. The creation, alteration or termination of any special service district shall be by ordinance of the Metropolitan Council in accordance with general law. The General Services District, the Urban Services District and each Special Services District that may be created shall be considered a separate tax district.

### **Section 1.04. Expansion of Urban Services Districts.**

The area of the Urban Services Districts may be expanded and its boundaries extended by annexation whenever particular areas of the General Services District or a Special Services District come to need urban services and the Metropolitan Government becomes able to provide such

services within a reasonable period, which shall not be greater than thirty-six (36) months after ad valorem taxes in the annexed area become due.

Annexation shall be based upon a program set forth in the capital improvement budget provided for by Section 6.13. Such annexation shall be accomplished and the validity of the same may be contested, by the methods and procedures specified in Tennessee Code Annotated, Sections 6-51-101 to 6-51-106 in effect January 1, 1998, with respect to annexation by municipalities.

**Section 1.05. Powers and functions within General Services District, Urban Services Districts and Special Services Districts.**

The Metropolitan Government may exercise within the General Services District those powers and functions which have heretofore been exercised by Lincoln County or the City of Fayetteville and shall supply the residents of said General Services District with those governmental services which are now, or hereafter may be, customarily furnished by a county government.

The Metropolitan Government may exercise within the Urban Services Districts those powers and functions which have heretofore been exercised by the City of Fayetteville, or Lincoln County, and shall supply the residents of said Urban Services Districts with those governmental services which are now, or hereafter may be, customarily furnished by a city government.

The Metropolitan Council, as addressed in Article 3 below, may create outside the Urban Services Districts one or more Special Services Districts for the purpose of furnishing or performing one or more services furnished within the Urban Services District. The boundaries of Special Services Districts shall be determined by the Metropolitan Council and shall become fixed by ordinance of the Metropolitan Council thirty (30) days or more after notice of the determination of the boundaries of a District has been given to the property owners of the District. Such notice shall be given by mailing a description of the boundaries of the District to all of the property owners of record within the District, at their last known address. The boundaries of any Special Services District shall not be required to be contiguous with the boundaries of the Urban Services District. The boundaries of any Special Services District may be altered at any time by means of the same procedure by which the District was created. Each Special Services District may be given such name as the Metropolitan Council shall deem appropriate. The boundaries of Special Services Districts may overlap or be coextensive with boundaries of other Special Services Districts. In the case of Special Services Districts for sanitary sewers, such sanitary sewers shall be furnished to the residents and property owners of such Special Services Districts within thirty-six (36) months after ad valorem taxes in such Special Services Districts become due. The Metropolitan Government may exercise within any Special Services District those powers and functions that the general law authorizes such governments to exercise.

Nothing in the foregoing enumeration and assignment of functions shall be construed to require the continued maintenance or furnishing of any governmental service which the Metropolitan Council, by ordinance, has determined to be obsolete and unnecessary.

Nothing in this Article shall be deemed to limit the power of the Metropolitan Government to exercise, furnish, or provide other functions and services or new and additional functions and

services in either the Urban Service Districts, the General Service District, or any Special Services District. The Metropolitan Council by ordinance may assign, reassign, and adjust services within the various Services Districts. Each such ordinance shall include an adjustment of the tax rate in each Services District affected to reflect any adjustment of costs among Services Districts.

The Metropolitan Government may provide services through self-performance, contract, franchise, public utility arrangements or other arrangements. Nothing in this Charter shall be deemed to limit the Metropolitan Government's prerogative to determine by what method services will be provided.

## **ARTICLE 2. POWERS**

### **Section 2.01. General powers.**

In addition to other powers herein granted, the Metropolitan Government shall be vested with (a) any and all powers which cities are, or may hereafter be, authorized or required to exercise under the Constitution and general laws of the State of Tennessee, as fully and completely as though the powers were specifically enumerated herein, except for such limitations and restrictions as are provided in Tennessee Code Annotated, Section 7-1-101 et seq., as amended, or in this Charter; (b) any and all powers which counties are, or may hereafter be, authorized or required to exercise under the Constitution and general laws of the State of Tennessee, as fully and completely as though the powers were specifically enumerated herein, except for such limitations and restrictions as are provided in Tennessee Code Annotated, Section 7-1-101 et seq., as amended, or in this Charter; and (c) any and all powers possessed by Lincoln County or the City of Fayetteville, on December 31, 2008.

## **ARTICLE 3. THE METROPOLITAN COUNCIL**

### **Section 3.01. Metropolitan Council created; District Council Members; District boundaries and numbers.**

The legislative authority of the Metropolitan Government, except as otherwise specifically provided in this Charter, is vested in a Metropolitan Council sometimes herein called "Council".

The Metropolitan Council shall have a total membership of twelve (12), known as Council Members. The area of the Metropolitan Government shall be divided into eight (8) Metropolitan Council Districts. One (1) Council Member shall be elected from each District. In addition, all of the qualified voters of the Metropolitan Government shall be entitled to vote for four (4) at-large Council Members. The four (4) at-large candidates receiving the largest number of votes shall be elected.

The initial boundaries and District numbers of the Metropolitan Council Districts shall be identical with the boundaries and District numbers of the Districts for the election of Members of the Board of County Commissioners of Lincoln County in existence at the time of the adoption of this Charter. Requirements for the Metropolitan Council to change these District boundaries when required to maintain substantially equal populations in all Districts are provided in Section 15.02.

### **Section 3.02. Terms; age and residence qualifications; salary.**

The Members of the Metropolitan Council shall serve for a term of four (4) years and until their successors are elected and qualified.

No person shall be eligible to serve as Council Member unless they shall have attained the age of twenty-five (25) at the beginning of their term, and unless they shall have been a resident of the area of the Metropolitan Government for a period of two (2) years at the time of qualification. No person shall be eligible to serve as Council Member unless they shall have been a resident of the District for which they were elected for a period of one (1) year at the time of qualification. Council Members shall continue to reside in the District they represent during the entire term of office. In the event of redistricting, the resident qualification shall not apply if the candidate has maintained the same address for the required period.

Council Members' initial salary shall be \$500.00 monthly. Compensation for Members of the Metropolitan Council shall not be adjusted during their terms of office, except upon assumption of additional responsibilities as Metropolitan Mayor as expressly provided in Article 5. Compensation for Members of the Metropolitan Council may be adjusted by ordinance to take effect the following term of office. Members of the Council shall hold no other elective or appointive office in the Metropolitan Government or employment by said Government, except as expressly provided in this Charter.

### **Section 3.03. Quorum; rules of procedure.**

The Metropolitan Mayor, whose duties and responsibilities are defined in Section 5.05 and 5.06, shall preside at Council meetings. Not less than seven (7) Members of the Council shall constitute a quorum for the transaction of business. At the first meeting of each Council term and each year thereafter, a Metropolitan Vice-Mayor, who shall be a member of the Council, shall be elected by the Council and he/she shall serve as presiding officer in the absence of the Metropolitan Mayor. Such Vice-Mayor shall serve for a period of twelve (12) months or until the next Council election, whichever occurs first. The Vice-Mayor shall be allowed to vote on all matters while presiding in the absence of the Metropolitan Mayor, as a regular member of the Council.

When a state of emergency has been declared by the Governor of Tennessee and this is in effect in Lincoln County, a majority of the current members of the council constitute a quorum to transact business and pass emergency ordinances and resolutions.

Except as otherwise provided in this Charter, the Metropolitan Council shall determine its own rules and order of business. The initial rules of procedure shall be adopted at the organizational meeting to be held within thirty (30) days after the election of the Council Members. These rules of procedure shall provide for the keeping of a record of its Council proceedings, which shall be a public record in accordance with Tennessee Law.

### **Section 3.04. Regular meetings and special meetings.**

The Metropolitan Council shall hold at least one (1) regular meeting each calendar month. Special meetings of the Metropolitan Council shall be held when called by the Metropolitan Mayor. The Vice-Mayor may call a special meeting of the Metropolitan Council if the Metropolitan Mayor is absent from Lincoln County or incapacitated. Also, a special meeting shall be called by the Metropolitan Mayor, or the Vice-Mayor if the Metropolitan Mayor is absent from Lincoln County, incapacitated or if petitioned in writing by a majority of the current Members of the Metropolitan Council. Written notice of at least forty-eight (48) hours shall be given to the Council Members for any special meeting, stating the subject or subjects thereof, and the business of such meeting shall be restricted to the subjects so stated. All meetings of the Council shall be open to the public and shall be held in a Metropolitan Government or public building, unless by reasons of casualty a different meeting place shall be selected, with public announcement thereof.

### **Section 3.05. Power and authority of the Council.**

The Council is authorized to legislate with respect to the powers of the Metropolitan Government granted by Article 2, except as otherwise provided in this Charter; and by ordinance to provide for the organization, conduct and operations of all departments, offices, boards, commissions, authorities and agencies of the Metropolitan Government, when the same has not been provided for by this Charter.

Ordinances and resolutions shall be presented for adoption to the Metropolitan Council only in written form. Ordinances shall be adopted written measures that are of a general, permanent, and/or

penal nature. Resolutions shall be adopted written measures that are of a temporary character dealing with administrative or executive matters.

No ordinance shall be adopted until it has been approved after two (2) separate readings. To pass on first reading requires a majority of those Members voting. To pass on second reading requires seven (7) affirmative votes of the members of the Council as constituted in Section 3.01. These two (2) readings of an ordinance shall occur at separate regular meetings of the Metropolitan Council. The Metropolitan Council, however, may act by an affirmative vote of eight (8) members of the Council voting to suspend the requirement of approval at two (2) regular meetings and proceed to a second reading and pass an ordinance at a subsequent special meeting held not less than seven (7) days after the proposed ordinance has passed the first reading at a regular meeting. In matters pertaining to Metropolitan Council District boundaries, taxation, zoning, and land use regulation, the rule requiring passage at two (2) regular meetings shall not be suspended. An ordinance may provide for a fine, civil penalty, injunctive relief or other equitable remedy for each violation of a penal ordinance in an amount and manner not in conflict with the general law. The Metropolitan Council may adopt a resolution after a single reading at any meeting of the Metropolitan Council.

In addition to the foregoing and in aid of its legislative function, the Council is authorized by resolution passed by a two-thirds (2/3) majority as constituted in Section 3.01, to conduct investigations by the whole Council, or any of its committees, to employ and compensate personnel necessary for such purpose, and to make appropriations in aid thereof.

**Section 3.06. No pensions for Council Members.**

Members of the Council shall not be eligible to receive, and shall not receive, any pension by reason of their service as Members of said Council.

Nothing in this Section shall be deemed to abrogate or diminish the obligation of the Metropolitan Government to pay pensions to those persons who, upon December 31, 2008, are entitled to receive pensions.

**Section 3.07. Clerk.**

The County clerk shall serve as the clerk of the Metropolitan Council and perform such duties in regard thereto as requested by the Council by resolution.

## **ARTICLE 4. THE URBAN COUNCIL**

### **Section 4.01. Function, selection, and term of the Urban Council.**

The Urban Service District shall constitute a municipal corporation, with a three (3)-member Urban Council, whose sole function shall be a mandatory obligation to levy an ad valorem tax, adequate with other available funds, to finance the budget for urban services, as determined by the Metropolitan Council. The Urban Council shall meet immediately following any meeting of the Metropolitan Council at which an annual budget is adopted or amended or at which the annual tax rate for the General Service District is adopted or amended. The minutes for the Urban Council shall be kept by the Metropolitan Clerk.

The three (3) Members of the Urban Council shall be the three (3) Metropolitan Council Members who reside within the Urban Service District, and received the largest number of votes at the latest election for all members of the Metropolitan Council. The term of office for the Urban Council Member shall be the same as the term of a Metropolitan Council Member. Should there not be three (3) Metropolitan Council Members who reside within the Urban Services District, the Metropolitan Council shall elect such additional members as are necessary from residents of the Urban Services District to serve as members of the Urban Council.

## **ARTICLE 5. EXECUTIVE BRANCH**

### **Section 5.01. Executive powers.**

All executive and administrative powers of the Metropolitan Government shall be vested in and exercised by the executive branch, except as otherwise provided in this Charter.

### **Section 5.02. Organization.**

The executive branch shall consist of the office of the Metropolitan Mayor, the office of the Metropolitan Administrator, the directors of departments, departments, boards, commissions and authorities ordained by the Council or established by law.

### **Section 5.03. General provisions concerning departments.**

1. The operations and responsibilities of each department in the consolidated government shall be distributed among such divisions or departments as may be provided for by ordinance of Council or provided herein. Each department shall consist of such officers, employees, and positions as may be provided by ordinance.
2. Each department shall be led by a director who shall be the principal officer thereof. Except as otherwise provided by law or this Charter, each director shall, subject to the supervision and direction of the Metropolitan Administrator, be responsible for the conduct of the affairs and operations of his or her department and shall exercise general management and control of the several divisions or other units of the departments as may be established by ordinance of the Council.
3. All directors of departments shall be appointed by the Metropolitan Administrator and confirmed by a majority vote of the Council, except where other appointing authority is designated by this Charter or by applicable state or federal law. All directors of departments may be removed by the Metropolitan Administrator or by a two-thirds vote of the Council.
4. Except as otherwise provided by this Charter, the directors of departments and other appointed officers of the government shall serve at the pleasure of the appointing authority. Vacancies occurring in an appointive office shall be filled in the same manner as prescribed by this Charter for an original appointment.
5. Except as otherwise provided by law, the directors of departments and other appointed officers of the consolidated government shall be appointed on the basis of their respective executive, administrative and professional qualifications.
6. All appointive officers and directors of departments shall receive such compensation as prescribed by ordinance of the Council.

**Section 5.04. General provisions concerning boards, commissions and authorities.**

1. All members of boards, commissions and authorities of the consolidated government shall be appointed by the Metropolitan Mayor, subject to approval of the Council, for such term of office and by such manner of appointment as provided by ordinance, except where other appointing authority, term of office or manner of appointment is prescribed by this Charter or by applicable state or federal law.
2. Any vacancy in office of any member of a board, commission and authority of the consolidated government shall be filled for the unexpired term in the manner prescribed herein for original appointment, except as otherwise provided by this Charter or by applicable state law.
3. Any member of a board, commission or authority of the consolidated government may be removed from office for cause by the Metropolitan Mayor with the approval of a majority of the Council or by the Council on its motion by a 2/3 majority vote.
4. Except as otherwise provided by law, members of boards, commissions and authorities may receive such compensation as may be prescribed by ordinance. The Council may by ordinance establish a policy for reimbursement of the actual and necessary expenses incurred by such members in the performance of their official duties.

**METROPOLITAN MAYOR**

**Section 5.05. Term; qualifications; compensation; election.**

1. The Metropolitan Mayor of the Metropolitan Government (herein referred to as the "Mayor") shall be elected for a term of four (4) years and shall serve until a successor is elected by the qualified voters of the Metropolitan Government.
2. The Mayor shall be a citizen of the United States, shall have been a resident and qualified elector of the area of the Metropolitan Government, for at least two (2) years prior to the date of his or her election, and shall be at least twenty-five (25) years of age when elected to office. If the Mayor shall cease to be a resident and qualified elector during his or her term of office, he or she shall forthwith forfeit the office and the Council shall declare the office vacant.
3. The initial amount of salary to the Mayor shall be \$75,000.00, and thereafter fixed by ordinance of the Council, provided, however, that such compensation shall not be diminished during his or her term of office, and no increase in salary shall take effect before the beginning of the next term of office, and the salary shall not be less than that established under general law, for a Mayor of the population class of Lincoln County.

## **Section 5.06. Powers and duties of Metropolitan Mayor.**

The Mayor shall have the power and the duty:

1. To be the official spokesperson for the Metropolitan Government and its chief advocate of policy, and to see that the ordinances, resolutions, and regulations of the Council and laws of this state, subject to enforcement by the Mayor or by officers subject to the Mayor's direction and supervision, are faithfully executed and enforced;
2. To preside at all meetings of the Council and to have a voice in its proceedings;
3. (a.) To appoint the Metropolitan Administrator and the Metropolitan Attorney. Such appointments shall become effective when confirmed by the affirmative vote of a majority of the Council;  
(b.) To remove the Metropolitan Administrator and the Metropolitan Attorney when approved by a majority vote of the Council;
4. To have the right to vote only in the case of a tie or when his or her vote is required to reach the majority necessary to pass an ordinance or resolution.
5. To sign ordinances on their final passage; to sign deeds, bonds, contracts and other instruments and documents in any case in which the execution of legal instruments of legal writing or of other necessity, required by general laws of the state, provisions of this Charter, or ordinance or resolution of the Council;
6. To be recognized as the official head of the Metropolitan Government by the courts for the purpose of receiving service of civil process, by the Governor for the purpose of military law, and for all ceremonial purposes;
7. To call special meetings of the Council;
8. To conduct studies and to make recommendations to the Council for legislation concerning all matters relating to the Metropolitan Government and the welfare of its citizens;
9. To appoint for his or her information and assistance, advisory boards, commissions, and committees, which shall be answerable only to the Mayor, but whose actions shall be advisory in nature;
10. To perform such other functions and duties as required by law, this Charter, or ordinance, or resolution to the Council;
11. To participate in the pension plan like all other Metropolitan Government employees.

**Section 5.07. Limitation on other elective office of Metropolitan Mayor.**

During his or her term of office, the Mayor shall not hold any other elective public office or any appointive position of employment with the Metropolitan Government.

**Section 5.08. Metropolitan Vice-Mayor powers; duties.**

During the absence or disability of the Mayor for any cause, the Metropolitan Vice-Mayor (herein referred to as the “Vice-Mayor”) shall exercise all the powers and discharge all the duties of the Mayor, until such vacancy has been regularly filled or until the return of the Mayor or the removal of the Mayor’s disability. In the event of the absence or disability of both the Mayor and the Vice-Mayor for any cause, the Council shall designate one (1) of its number to preside over Council meetings and discharge the duties of Mayor until either the return or removal of the disability of the Mayor or Vice-Mayor. The Council member who serves as Vice-Mayor shall receive an annual salary equal to the annual salary of council members plus such additional compensation as may be fixed from time to time by ordinance of the Council.

**METROPOLITAN ADMINISTRATOR**

**Section 5.09. Metropolitan Administrator.**

The Metropolitan Administrator shall be appointed and removed in accordance with the requirements of Section 5-06(3) of this Charter. The Administrator shall not be removed without having been first served with written notice setting out the grounds for his or her removal and given an opportunity to be heard by the Council. The Council, without the recommendation of the Mayor, shall be authorized to remove the Administrator upon the affirmative vote of eight (8) members. Vacancies occurring in the office of the Administrator shall be filled in the same manner as prescribed by this Charter for original appointment. The Mayor, with the approval of a majority of the Council, may enter into a contract of employment with the Administrator, not to exceed four (4) years.

**Section 5.10. Residence and compensation of Metropolitan Administrator.**

The Administrator need not be a resident of the area of the Metropolitan Government or of the State of Tennessee at the time of his or her appointment, but residence in the Metropolitan Government area must be acquired within three (3) months thereafter and thereafter retained during the period of his/her employment. The Administrator shall receive such compensation as fixed by ordinance or contract approved by the Metropolitan Council.

**Section 5.11. Powers and duties of Metropolitan Administrator.**

The Administrator, shall:

1. Appoint and remove all heads of departments in the administrative service of the Metropolitan Government, who are subject to his or her control and direction, as provided for by this Charter or personnel rules adopted pursuant to this Charter and by ordinance;

2. Direct and supervise the administration of all departments, offices and agencies of the Metropolitan Government except as otherwise provided by law, this Charter, or ordinance;
3. Prepare and submit to the Mayor the annual operating and capital budget and capital improvement program;
4. Submit to the Mayor and Council and make available to the public, a complete report on the finances and administrative activities of the Metropolitan Government, as of the end of each fiscal year and at such other times at the Mayor may direct;
5. Prepare and make such other reports concerning the operations of departments, offices and agencies of the Metropolitan Government, subject to the Administrator's direction and supervision as may be required by the Mayor or by the Council;
6. Keep the Mayor and Council fully advised as to the financial condition and future needs of the government and make such recommendations to the Mayor and the Council concerning the affairs of the Metropolitan Government as he or she deems desirable;
7. Have care and custody of all buildings and of all real and personal property of the government not assigned to other officials, boards or commissions by this charter or ordinance;
8. Direct and supervise the administration of the construction, maintenance, and operation of public streets, roads, bridges, drains and buildings and other public works;
9. Confer with and advise all elected and appointed officials of the Metropolitan Government who are not under the immediate control or jurisdiction of the Council but who receive financial support therefrom;
10. Regularly examine accounts, records and operations of each board, commission, authority, department, office and agency which receives appropriations from the Council;
11. Provide general liaison between the Mayor, the Council and all departments, boards, commissions and employees of the government;
12. Perform such other duties as may be required by law, this Charter, ordinance, or resolution of the Council.

## **METROPOLITAN ATTORNEY**

### **Section 5.12. Appointment and removal of Metropolitan Attorney.**

The Metropolitan Attorney shall be appointed and removed in accordance with the requirements of Section 5.06(3) of this Charter. The Attorney shall not be removed without having been first served with written notice, setting out the ground for his or her removal, and given an opportunity to be

heard by the Council. The Council, without the recommendation of the Mayor, shall be authorized to remove the Attorney upon the affirmative vote of eight (8) members. Vacancies occurring in the office of the Attorney shall be filled in the same manner as prescribed by this Charter for original appointment.

**Section 5.13. Qualifications; compensation of Metropolitan Attorney.**

The Metropolitan Attorney shall be a resident of the area of the Metropolitan Government, a member of the State Bar of Tennessee in good standing, and shall have had at least five (5) years' experience in the active practice of the law. The compensation of the Metropolitan Attorney shall be fixed by ordinance.

**Section 5.14. Duties of Metropolitan Attorney.**

The Metropolitan Attorney shall:

1. Act as the legal advisor to and attorney and counsel to the Metropolitan Government and all its officers in matters relating to their official duties;
2. Prepare all contracts, bonds and other instruments in writing in which the Metropolitan Government is concerned and shall endorse on each approval of the form and correctness thereof, and no such written contract with the Metropolitan Government shall take effect until the approval of the Metropolitan Attorney is endorsed thereon;
3. Perform such other duties as may be required by law, this Charter, ordinance, or resolution of the Council.

**Section 5.15. Employment of other attorneys.**

The Mayor, with the approval of a majority of the Council, may employ other attorneys when needed due to the complexity of the matter or litigation or in cases where the Metropolitan Attorney cannot serve regarding a particular case or matter of concern, whether due to a conflict of interest, illness or other cause.

## **ARTICLE 6. THE BUDGETS AND FINANCIAL MATTERS**

### **Section 6.01. Fiscal year.**

The fiscal year of the Metropolitan Government shall begin on the first day of July of each year and shall end on the thirtieth day of June next following. Said fiscal year shall constitute the budget year and the year for financial accounting and reporting of each and every office, department, institution, activity and agency of the Metropolitan Government; but the aforesaid provision shall be in addition to, and not in lieu of, any accounting and reporting required of any official or agency by state or federal laws.

### **Section 6.02. Preparation of annual operating budget.**

The Metropolitan Director of Finance and Purchasing shall obtain from all officers, departments, boards, commissions and other agencies for which appropriations are made by the Metropolitan Government, or which collect revenues for such government, such information as shall be necessary for him or her to compile the annual operating budget; and it shall be the duty of all such officers, departments, boards, commissions and agencies to furnish the director such information as he or she may require at such time or times and in such forms as the director may reasonably prescribe.

Not later than three months prior to the end of each fiscal year, said director shall distribute to each of the agencies identified in the preceding paragraph all forms necessary for the preparation of the operating budget for the succeeding fiscal year. Such forms shall be returned to the director with the information desired not later than two months prior to the end of the current fiscal year. On the basis of the information so received and otherwise secured by the director, said director shall prepare and transmit to the Mayor and Administrator, a proposed operating budget for the next fiscal year of the kind and scope set forth in Section 6.03 hereof. In preparing the proposed budget, the director may revise, as he may deem necessary, the estimates or requests made by the various officers, departments, boards, commissions and agencies, but any such agency shall be entitled to a hearing before the Administrator, with reference to any contemplated changes in its budget requests or estimates.

### **Section 6.03. Scope of the annual operating budget.**

Section I of the annual operating budget shall apply only to the General Services District and shall deal with those services and functions appertaining to the General Services District, as set out by this Charter, or by ordinance of the Council.

Section II of the annual operating budget shall apply only to the Urban Services District and shall deal with those services and functions appertaining to such Urban Services District, as set out in this Charter, or by ordinance of the Council.

Section III of the annual operating budget shall apply only to the Special Services Districts and shall deal with those services and functions appertaining to such Special Services Districts, as set out in this Charter, or by ordinance of the Council.

Each of the above-described sections of the annual operating budget shall contain with respect to each of the operating funds of the Metropolitan Government to which they are applicable:

- (a.) An estimate of the unencumbered fund balance or deficit at the beginning of the ensuing fiscal year, and the amount of any reserves for designated purposes or activities includable in the operating budget.
- (b.) A reasonable estimate of revenues to be received during the ensuing year, classified according to source, but the estimated revenues from current and from delinquent property taxes, shall not exceed the percentage of the total receivable from each such source collected during the last completed fiscal year, or the current fiscal year.
- (c.) Proposed expenditures for each organization unit and activity in accordance with the established classification of accounts, including those capital outlays which are to be financed from the revenues of the ensuing year, and including all debt service requirements in full for such fiscal year payable from such fund.

In no event shall the total proposed expenditures from any fund exceed the total anticipated revenues, plus the estimated unappropriated surplus, or fund balance, and applicable reserves, and less any estimated deficit at the end of the current fiscal year.

1. For debt service purposes: Debt services funds consisting of cash and securities will include sufficient funding for payments for bonds issued prior to December 31, 2008, which shall be transferred to the debt service fund of the district as stated below:

- (a) Bonds issued by the County of Lincoln will be included in the Metropolitan budget under the General Services District, if it is hereby found and determined that all such bonds were issued to finance all or part of the cost of improvements or properties which render, or will render services or benefits to all, or substantially all the inhabitants of the entire General Services District.
- (b) Bonds issued by the City of Fayetteville will be included in the Metropolitan budget under the Urban Services District, if it is hereby found and determined that all such bonds were issued to finance all or part of the cost of improvements or property which render or will render services or benefits to all or substantially all inhabitants of the urban district.

2. For reserve purposes: To retain savings, all monies in reserve (savings) of the City of Fayetteville will be expended exclusively in that area with the corporate limits of said municipal corporation where it existed prior to entry into Metropolitan Government. The Urban District Council members elected from the Urban District serving the area formerly within the corporate limits of the said municipal corporation on the Metropolitan Council shall serve as a committee to recommend to the Metropolitan Council as to how the funds should be expended within the Urban Services District, until said sums are completely disbursed. In the Special Services Districts, the Metropolitan Council members elected from the Special Services Districts shall serve as a committee to recommend to the Metropolitan Council as to how the funds should be expended

within the Special Services District, until said sums are completely disbursed. They shall be held in two separate special revenue funds until expended. The Mayor may submit amendments to the annual operating budget at any time during the year, accompanied by the recommendation thereon of the Administrator, which amendments shall become effective when adopted by a majority vote of the membership of the Council.

**Section 6.04. Review and revision of operating budget by Mayor, submission to council; budget as public record; distribution of copies.**

The Administrator shall review the operating budget submitted to him or her by the Director of Finance and Purchasing, and may make any revisions to such budget as he or she may deem necessary or desirable and submit the same to the Mayor who may make the final revisions before submitting it to the Council.

Not later than May 15<sup>th</sup> of each year, the Mayor shall submit to the Metropolitan Council the operating budget as approved by him or her in the form and with the contents specified in Section 6.03 hereof, together with a message explaining such budget, describing its important features, and outlining the proposed financial policies of the Metropolitan Government for the ensuing fiscal year, and setting forth the reasons for any significant changes in policy or budgetary allocations.

The Mayor shall promptly cause copies of the budget and the budget message to be prepared for distribution to interested persons, and a summary of the budget shall be published in a newspaper of general circulation in the area of the Metropolitan Government. The operating budget, as well as the capital improvements budget hereinafter provided for, the budget message, and all supporting schedules shall be public records in the office of the Metropolitan Clerk and shall be open to public inspection.

**Section 6.05. Hearings by Council.**

After the Council shall have passed the budget ordinance on first reading, it shall hold a hearing on the proposed operating budget, as well as on the capital improvements budget, as provided in Section 6.13 hereof, but the hearing on the capital improvements budget shall be heard prior to those on the proposed operating budget, and the hearing on either budget may be adjourned from time to time. The budget hearing shall be advertised in a newspaper of general circulation, published in the area of the Metropolitan Government at least seven days prior to the date set for the beginning of such public hearing.

**Section 6.06. Action by Council on operating budget.**

After the conclusion of the public hearing, the Council may amend the operating budget proposed by the Mayor, except that the budget as finally amended and adopted must provide for all expenditures required by law, or by other provisions of this Charter, and for all debt service requirements for the ensuing fiscal year as certified by the Director of Finance and Purchasing. The Council shall not alter the estimates of receipts or other fund availability included in the budget document, except to correct errors and omissions, in which event a full explanation shall be spread

upon the minutes of the Council. In no event shall the total appropriations from any funds exceed the estimated fund balance, reserves and revenues, constituting the fund availability of such fund.

The Council shall finally adopt an operating budget for the ensuing fiscal year not later than the thirtieth day of June, and it shall be effective for the fiscal year beginning on the following July 1<sup>st</sup>. Such adoption shall take the form of an ordinance, setting out the estimated revenues in detail by source and making appropriation according to fund and by organizational unit, purpose or activity as identified in the budget document. If the Council shall fail to adopt a budget prior to the beginning of any fiscal year, it shall be conclusively presumed to have adopted the budget as submitted by the Mayor.

A copy of the adopted budget, certified by the Metropolitan Clerk, shall be filed in the office of the Director of Finance and Purchasing.

The amount identified in the adopted operating budget for each organizational unit, purpose or activity shall constitute the annual appropriation for such item, and no expenditure shall be made or encumbrance created in excess of the otherwise unencumbered balance of the appropriation, or allotment thereof, to which it is chargeable. This shall not preclude the impoundment of funds or additional appropriations as provided herein.

In the event the State of Tennessee has not adopted a final annual budget for the State prior to May 15<sup>th</sup> of any year, the Mayor may approve and submit a continuation budget which may be approved by the Metropolitan Council. The Mayor shall submit a complete annual budget for the Metropolitan Government within thirty (30) days of an appropriation act by the Tennessee General Assembly for an entire fiscal year becoming law.

#### **Section 6.07. Property tax levies.**

The Council shall levy an annual tax on real and personal property in the General Services District, and the tax levy ordinance shall be the next order of business of the Council after the adoption of the operating budget. The General Services District tax rate shall consist of two components, which shall be separately established and listed: one for schools and one for other general services.

The General Services District tax rate set by such ordinance shall be such that a reasonable estimate of revenue from the levy shall at least be sufficient, together with other anticipated revenues, fund balances, and applicable reserves, to equal the total amount appropriated, with the exception of the amount appropriated for schools, and to provide in addition a reasonable amount of fund balance for each of the several funds.

The Special Services Districts tax rates shall be set by the Metropolitan Council to be sufficient for services rendered.

After the Council has approved the annual operating budget of the Urban Services District, said Council shall determine and declare the amount of revenue, which must be produced from a tax levy upon the real and personal property within the Urban Services District. The Urban Council shall thereupon, convene, and it shall have a mandatory obligation by resolution to levy a property

tax, adequate with other available funds, to finance the budget for urban services, as determined by the Council.

**Section 6.08. Allotments of appropriations.**

All appropriations contained in the current operating budget, except those studied in the last sentence of this section, shall be allotted by the Director of Finance and Purchasing on a quarterly basis, and it shall be his or her duty to make such allotments promptly at the beginning of each quarter of the fiscal year. Such allotments shall be based upon estimated needs, and, in the determination of such need, the Director of Finance and Purchasing may require all spending agencies to submit allotments requests on such forms as he may reasonably prescribe. Such allotments shall constitute authorizations for expenditure or encumbrance, and no expenditure shall be made or encumbrance created, but in pursuance of an allotment, and within the otherwise unencumbered balance of such allotment.

**Section 6.09. Impoundment of funds.**

Upon certification of the Director of Finance and Purchasing that the revenues or other resources actually realized, with respect to any fund, are less than was anticipated and are insufficient to meet the amounts appropriated from such fund; it shall be the duty of the Mayor to impound such appropriations as may be necessary to prevent deficit operation.

**Section 6.10. Additional appropriations.**

The Metropolitan Council may make appropriations in addition to those contained in the current operating budget, at any regular or special meeting called for such purpose, but any such additional appropriation may be made only from an existing unappropriated surplus in the fund to which it applies.

**Section 6.11. Transfer of appropriations.**

On request of any department head, the Administrator may transfer the unencumbered balance of any appropriation, or any portion thereof, for any purpose or activity, to the appropriation for any other purpose or activity within the same department, but the same shall not be available for encumbrance or expenditure until it shall have been allotted by the Director of Finance and Purchasing.

At the request of the Administrator, but only at the end of any quarter of the fiscal year, the Council may, by resolution approved by a majority of the membership of the Council, transfer the unencumbered balance of any appropriation, or any portion thereof, to another appropriation within the same section of the budget and within the same fund. However, the Council shall not make transfers of appropriations, at any time, among the General Services District, the Urban Services District, and the Special Services Districts, or transfer monies from any operating fund to another fund. Provided, however, that this stipulation shall not apply to the discharge of obligations existing between governmental agencies financed from one fund and those financed through another fund, nor to the transfer of monies from operating funds to agency or trust funds, covering

collections to be expended through such agency or trust funds, nor to the transfer of the unappropriated surplus in bond funds to the debt service funds set up to retire such bond, nor to such other transfers between funds as may be authorized by law.

**Section 6.12. Lapse of appropriations.**

All unencumbered balances of appropriations in the current operating budget at the end of the fiscal year shall lapse into the unappropriated surplus or reserves of the fund or funds from which such appropriations were made, unless otherwise required by general law.

**Section 6.13. Capital improvements budget.**

The Director of Finance and Purchasing shall obtain annually from all officers, departments, boards and commissions and other agencies requesting funds from the Metropolitan Government for capital improvements, such information as he shall require to enable him or her to prepare the capital improvements budget. The capital improvements budget shall include a program of proposed capital expenditures for the ensuing fiscal year and the next five fiscal years thereafter. Section I of the capital improvements budget shall present proposed General Services District projects. Section II shall present proposed Urban Services District projects. Section III shall present proposed Special Services Districts projects. All of these shall be submitted to the Administrator and the Mayor, who shall submit the capital improvements budget to the Council, not later than May 15<sup>th</sup>, and shall recommend those projects to be undertaken during the ensuing fiscal year, and the method of financing them, noting the impact on the debt structure of the Metropolitan Government, and shall include in the appropriate current operating budget any projects to be financed from current revenues for the ensuing fiscal year.

The Council shall have power to accept, with or without amendment, or reject, the proposed program and proposed means of financing. The Council shall not authorize an expenditure for the construction of any building, structure, work or improvement, unless the appropriation for such project is included in its capital improvements budget, except to meet a public emergency threatening the lives, health or property of the inhabitants, when passed by two-thirds vote of the membership of the Council. The capital improvements budget must be acted upon finally by the Council, not later than the thirtieth day of June following its submission; if not, the capital improvements budget submitted by the Mayor shall become effective.

In the event the State of Tennessee has not adopted a final budget by May 15<sup>th</sup> of any year, the Mayor shall not be required to submit the capital improvements budget until thirty (30) days after the final adoption of a state budget.

The Mayor may submit amendments to the capital improvements budget at any time during the year, accompanied by the recommendation thereon of the Administrator, which amendments shall become effective when adopted by a two-thirds vote of the membership of the Council.

**Section 6.14. General fund reserve.**

The General Services District operating budget shall contain a restricted account to be known as the General Services District reserve, which shall equal an amount at least four percent (4%) of the total General Services District budget. No expenditures from this restricted account may occur except upon the recommendation of the Mayor and approval by a two-thirds majority of the Metropolitan Council. Monies from this restricted account may be used for equipment purchases for departments of the Metropolitan Government funded at least in part from the operating budget of the General Services District, repairs to buildings owned by the Metropolitan Government and used by departments receiving operating funds from the General Services District budget, or for use in emergencies wherein the County of Lincoln is in state of emergency as defined by general law.

The Metropolitan council, by ordinance, may create within the operating budget of the Urban Services District a restricted account to be known as the Urban Services District reserve, which shall not exceed four percent (4%) of the Urban Services District operating budget. No expenditures from this restricted account may occur except upon the recommendation of the Mayor and approval by the Metropolitan Council. Monies from this restricted account may be used for equipment purchases for departments of the Metropolitan Government funded at least in part from the operating budget of the Urban Services District, repairs to buildings owned by the Metropolitan Government and used by departments receiving operating funds from the Urban Services District budget, or for use in emergencies wherein the County of Lincoln is in state of emergency as defined by general law.

**Section 6.15. Post audit.**

The Council shall provide annually for an independent audit of the accounts and other evidences of financial transactions of the Metropolitan Government and of its every department, office and agency. The audit shall be made by an accountant or an accounting firm, the members of which have no personal interest, direct or indirect, in the fiscal affairs of the Metropolitan Government, or of any of its departments, offices, or agencies. The designated accountant shall be a certified public accountant, or, if an accounting firm is employed, the firm shall be so certified and thoroughly qualified by training and experience in governmental accounting to perform the audit.

The independent audit shall be made by a firm chosen by the Council or it may be conducted by the Comptroller of the Treasury.

The audit may be conducted on a quarterly or continuing basis, and the final report of the annual audit shall be completed as soon as practicable after the close of the fiscal year, and in no event, later than six months after the close of the fiscal year. The audit report shall be available to the public and to the press. However, the Council may, by a two-thirds vote, extend the time.

The Council may at any time order an examination or special audit of any department, office or agency of the government.

## **ARTICLE 7. BOND ISSUES**

### **Section 7.01. Bonds authorized by Metropolitan Council; purposes of issue.**

The Metropolitan Government, when authorized by ordinance of the Metropolitan Council, may issue debt obligations to the extent and in the manner counties and/or municipalities or Metropolitan Governments are authorized to issue debt obligations under general law. The full faith and credit of the Metropolitan Government shall be pledged for all general obligation debt, based upon its taxing powers. The proceeds and payment of all debt obligations issued by the Metropolitan Government shall be allocated to the services district from which the proceeds of the debt obligation are intended as set forth by ordinance.

### **Section 7.02. Definitions.**

For the purposes of this Article, the word "bonds" shall mean and include bonds or other obligations payable from ad valorem taxes or other taxes, or from revenues derived from utilities or other revenue producing enterprises or facilities, or from any other sources, or any combination thereof. The words "revenue bonds" shall mean bonds or other obligations payable from the revenues derived from utilities or other revenue producing enterprises or facilities. The words "tax bonds" and "general obligation bonds" shall be used interchangeably and shall mean those bonds in which the government incurs a definite and absolute obligation by pledging the full faith, credit and unlimited taxing power of the Metropolitan Government as to all taxable property in the area of the Metropolitan Government or of a portion of the area of Metropolitan Government, if applicable, to the payment of the principal and interest on such bonds.

### **Section 7.03. Costs includable in bond issues.**

In any issue of bonds hereunder, the costs to be financed from the proceeds of such bonds may include: all engineering, technical and legal fees or expenses; interest upon such bonds during the period of acquisition or construction and for a reasonable period thereafter; fees of fiscal or financial agents or consultants, if any; acquisition of necessary equipment and furnishings; working funds and reserve funds; and such other items or expenses as are necessary and incidental to the completion and financing of the improvement or property and the placing of the same in operation or use or to the accomplishment of the public purpose for which the bonds were issued.

### **Section 7.04. Bond proceeds constitute trust fund.**

The proceeds of the sale of bonds issued under the provisions of this Article shall constitute a trust fund. Each issue shall be accounted for separately and apart, to be used exclusively for the purpose or purposes for which said bonds are authorized; but the purchaser of such bonds shall be under no obligation or responsibility to see to the application thereof. The manner of an application of such proceeds shall in no way affect the rights, remedies or security and sources for payment of the holders of such bonds.

### **Section 7.05. Unissued bonds of County or City.**

Any bonds duly authorized but unissued by Lincoln County or the City of Fayetteville on December 31, 2008 may be issued in the name of and sold by the Metropolitan Government, in accordance with the provisions of the statutes and resolutions under which such bonds were authorized in the

same manner and with like effect as though this Charter had not been enacted. It is the intent hereof that the enactment of this Charter shall in no way affect or impair the right of the Metropolitan Government to complete the sale and issuance of such bonds.

**Section 7.06. Combined tax and revenue bonds.**

The Council may also issue combined tax and revenue bonds, if deemed advisable, or pledge any other security permitted by law to the payment of such revenue bonds. In addition to revenues from such utility or other revenue producing enterprise or facility, ad valorem taxes may be pledged for the payment of all or any part of bonds for which such revenues are also pledged.

**Section 7.07. Debt service funds.**

There shall be a General Services District debt service fund, Urban Services District debt service fund, and Special Services Districts debt service fund for the amortization of general bonds, urban bonds, and special bonds respectively, including bonds issued prior to December 31, 2008, by Lincoln County and the City of Fayetteville. Such debt service funds shall consist of the cash and securities in the debt service funds for bonds issued by Lincoln County and the City of Fayetteville, such monies hereinafter required to be paid into such funds and the interest earned on the investment. The debt service funds for the bonds heretofore issued by Lincoln County and the City of Fayetteville shall be transferred to the debt service fund of the services district to which such bonds are allocated by this Article. Nothing contained herein, however, shall affect any debt service funds for any revenue bonds or other bonds which are required by the proceedings which authorized such bonds to be maintained as separate and segregated debt service funds for such bonds, and such sinking funds shall be transferred to the Metropolitan Government and segregated and maintained in the manner provided in the proceedings which authorized the issuance of such bonds.

There shall be included in the annual tax levy ordinances for the General Services District, the Urban Services District, and any Special Services District, over and above all other taxes assessed therein, a sum sufficient to meet the interest and redemption charges on all tax bonds due, or to be paid in the ensuing year and issued for, or allocated to, such Districts respectively, together with a sum sufficient to reimburse the general fund for any appropriation made, or to be made there from, for the payment of any such interest or redemption charges.

All monies paid into any debt service fund shall be used exclusively for the purchase, retirement or payment of the outstanding bonds for which such debt service funds are created and maintained. The Director of Finance and Purchasing shall keep a record of all receipts and disbursements of the debt service funds and shall report the same to the Mayor, Administrator and Council.

Should any levy for debt service fund purposes, except in the case of bonds payable solely from revenues, fail for any reason whatsoever to provide sufficient funds to meet the redemption and interest charges for bonds in any year, sufficient amounts shall be paid from either the general fund of the General Services District, the Urban Services District, or any Special Services District as the case may be, for such redemption and interest charges, subject to reimbursement from subsequent levies in the General Services District, the Urban Services District, or any Special Services District, as the case may be.

If either the General Services District debt service fund, the Urban Services District debt service fund, or Special Services District debt service fund accumulates a surplus sufficient to retire bonds callable and chargeable to such funds, the Director of Finance and Purchasing, with the approval by resolution of the Council, may purchase any of such bonds at a price not exceeding the redemption price thereof on the next ensuing redemption date or may call for prior redemption any of such bonds on the next ensuing redemption date in the manner provided in the proceedings which authorized the issuance of such bonds.

The Metropolitan Trustee shall credit at least monthly, or cause to be credited at least monthly, the amounts realized from the inclusion in the annual tax levy ordinances of the General Services District, the Urban Services District, and any Special Services District of the necessary sums in conformity with the above debt service fund provisions to the appropriate district debt service fund accounts.

Bonds issued prior to December 31, 2008, by Lincoln County, and bonds authorized but unissued by Lincoln County on December 31, 2008, and thereafter issued by the Metropolitan Government, shall be allocated to the General Services District for which services were rendered, and the principal of and interest on such bonds shall be paid from ad valorem taxes or other revenues collected in the General Services District.

Any bonds issued prior to the filing date of this Charter by the City of Fayetteville shall be allocated to the Urban Services District and the principal of and interest on such bonds, shall be paid from ad valorem taxes or other revenues collected in the Urban Services District.

Any bonds issued by the City of Fayetteville after the filing date of this Charter and before December 31, 2008, and any bonds authorized but unissued by the City of Fayetteville on December 31, 2008, and thereafter issued by the Metropolitan Government, shall be allocated either to the General Services District or the Urban Services District in such manner and amounts as the Council shall determine, consistent with the allocation of functions and services between the General and the Urban Services District, and the principal of and interest on such bonds shall be paid from ad valorem taxes or other revenues collected in the appropriate district as determined by the Council.

Any revenue bonds issued prior to December 31, 2008, by Lincoln County or the City of Fayetteville and any revenue bonds authorized but unissued by said County or said City on December 31, 2008, and thereafter issued by the Metropolitan Government, shall be payable as to principal and interest from the revenues or other sources and in the manner provided in the proceedings which authorized the issuance of such revenue bonds.

Neither the allocation of bonds to the General Services District, the Urban Services District, or any Special Services District as the case may be, nor any of the other provisions of this Charter shall impair or diminish any of the rights, remedies, security and sources for payment of any of such bonds or revenue bonds issued by Lincoln County or the City of Fayetteville but unissued by Lincoln County or the City of Fayetteville on December 31, 2008, and thereafter issued by the Metropolitan Government. Holders of such bonds or revenue bonds shall have and are entitled to enforce any and all rights, remedies and security, sources for payment granted such holders by the

proceedings which authorized the issuance of such bonds or revenue bonds as fully and to the same extent as if this Charter had not been adopted.

**Section 7.08. Sinking funds.**

Any sinking funds designated for the benefit of the citizens of Lincoln County prior to December 31, 2008, shall accrue to the benefit of the citizens residing in the General Services District. Any sinking funds designated for the benefit of the citizens of Fayetteville prior to December 31, 2008, shall accrue to the benefit of the citizens residing in the Urban Services District. Any sinking funds designated to accommodate a special or unique funding situation for a specific area will accrue to the Special Services District or to the district in which the citizens reside.

The above-designated sinking funds are to be retired as provided in the revenue certificates and are not considered bonded indebtedness of the above-specified services district.

**ARTICLE 8. METROPOLITAN DEPARTMENTS**

**CHAPTER 1. DEPARTMENT OF FINANCE AND PURCHASING.**

**Section 8.101. Department of Finance and Purchasing created; responsibility.**

There shall be a Department of Finance and Purchasing, which shall consist of the Director of Finance and Purchasing and such other employees, organized into such units, as may be provided by ordinance or by the Director, consistent with ordinance. The Director of Finance and Purchasing, with the approval of the Administrator, shall have the responsibility for the general management and control of the Department, and shall have the power to make rules and regulations for the administration of the Department.

The Department of Finance and Purchasing shall administer the financial affairs of the Metropolitan Government in accordance with the provisions of this Charter, applicable ordinances, and the laws of the State of Tennessee. The Department will administer the finances of the Metropolitan government for all the funds of the various departments, agencies, and boards which are handled by the County Trustee. The Department will be responsible for accounting, budgeting, purchasing, payroll, and cash management.

**Section 8.102. Appointment, salary and qualifications of the Director of Finance and Purchasing; salaries.**

The Director shall be appointed as set out in Section 5.03 (3) hereof. The Director's initial salary shall be set by the Metropolitan Administrator commensurate with skills and experience. The Director shall have a proven administrative ability and a well-founded reputation in public finance. The salary of all employees shall be included in the General Pay Plan.

**Section 8.103. Powers and duties of Director of Finance and Purchasing.**

The Director shall appoint and remove, with the approval of the Administrator, all employees to the Department, and shall have power to make rules and regulations for the conduct of the business of the Department, consistent with the charter and the laws of the Metropolitan Government. The Director shall be responsible to the Metropolitan Administrator for the administration and coordination of the financial affairs of the Metropolitan Government and to that end shall supervise the Budgets Division, the Accounts Division, the Purchasing Division, and such other divisions as may be established by ordinance.

The Director or designated Divisional Director shall:

- a. Compile for the Mayor and the Metropolitan Administrator, the budgets of estimated revenues and proposed expenditures for each of the operating funds and each of the capital improvement funds of the Metropolitan Government;
- b. Maintain accounting systems for the General Services District, the Urban Services District and any Special Services Districts of the Metropolitan Government, and for each department, office and agency thereof, in accordance with generally recognized governmental accounting principles and procedures, keeping accounting records, and exercising financial and budgeting control over each department, office or agency;
- c. Prescribe the accounts to be kept by all departments, offices and agencies of the Metropolitan Government, the form of receipts, vouchers, bills or claims, warrants, or any

financial stationery to be used, and provide suitable instructions for the use thereof, reviewing and approving the forms and procedures of the Metropolitan Trustee and the Metropolitan Assessor of Property;

- d. Examine all contracts, purchase orders and other documents which would result in financial obligations against the Metropolitan Government. Approve the same only upon ascertaining that there is an unexpended, unencumbered and unimpounded balance in each such appropriation and allotment to which they are applicable;
- e. Audit before payment all bills, invoices, payrolls and other claims, demands or charges against the Metropolitan Government and approve the same only if proper, legal and correct, and duly authorized by appropriations or allotments of appropriations sufficient to cover such potential obligations;
- f. Periodically inspect and audit the accounts and records of financial transactions maintained in each department, office and agency of the Metropolitan Government;
- g. Submit a financial report at least quarterly to the Administrator, for presentation to the Council, showing the financial condition of the various funds of the Metropolitan Government, as well as the condition of all items included in the adopted annual operating budget and capital improvement budget, including estimated revenues, revenues received, appropriations and allotments for such appropriations;
- h. Prepare a complete annual report of the financial activities of all funds and all departments, constitutional offices, boards, commissions, authorities and agencies of the Metropolitan Government;
- i. Subject to the approval of the Administrator, instruct the Trustee to invest the monies of any fund in securities of the Metropolitan, state or federal governments and/or place them on interest bearing deposit in a bank or banks when it is anticipated that the funds will not be needed for a period of ninety (90) days or more;
- j. Provide for a central financial records retention program;
- k. Purchase, or obtain by lease or rental, for the use of the Metropolitan Government and its departments, offices, boards, commissions, authorities and agencies, all necessary and appropriate supplies, materials, equipment, other personal property, contractual services, insurance and surety bonds. The Council may establish either by ordinance or resolution, certain defined emergencies, under which designated items, including perishables, may be purchased or obtained without compliance with purchasing procedures established in this Charter. Metropolitan Public Schools and Utilities and such other entities as may be specified by ordinance shall be excluded from the purchasing procedures established in this Charter, except to the extent otherwise herein specifically provided, as defined herein;

- l. Maintain an inventory of public property and equipment owned by the Metropolitan Government except that the public property and equipment of the Metropolitan Public Schools and Utilities;
- m. Under the supervision of the Administrator, will consult with the heads of all Metropolitan Government funded agencies to establish standard specifications for all supplies, material and equipment, which the Director has authority to purchase or lease. The Director shall prescribe an acquisition process that maintains efficiency and quality. The Director will be responsible for surplus sales after consulting with department heads when equipment is obsolete or unused. Additional duties include the awarding of contracts and other powers as provided by ordinance;
- n. Before making any purchase or contract requiring expenditures, the Director will adhere to regulations of the Tennessee Code Annotated and under such rules and regulations as may be established by ordinance. Before making a sale, the Director shall require competitive bids or public auction. The making of all other purchases or contracts by the Director shall be under such conditions, rules and regulations as may be prescribed by ordinance. The Director may reject any and all bids received for purchases or sales;
- o. Perform such other duties as may be assigned by this Charter or by ordinance or by the Administrator.

**Section 8.104. Conflicts of Interest.**

a. The Metropolitan Mayor, the Metropolitan Administrator, the Metropolitan Attorney, the Director of Finance & Purchasing, members of the Metropolitan Council, or other officials, employees, or members of the Board of Education shall not be financially interested or have any personal beneficial interest, either directly or indirectly, in the purchase of any supplies, materials, or equipment for the Metropolitan Government.

b. No firm, corporation, partnership, association, or individual furnishing any such supplies, materials, or equipment, shall give or offer nor shall the Director or purchasing agent or any assistant or employee accept or receive directly or indirectly from any person, firm, corporation, partnership, or association to whom any contract may be awarded, by rebate, gift, or otherwise, any money or other things of value whatsoever, or any promise, obligation or contract for future reward or compensation.

**Chapter 2. LAW ENFORCEMENT**

**Section 8.201. Metropolitan Police Department created.**

There shall be a Metropolitan Police Department, which shall consist of the Police Chief thereof, and such other employees of such ranks and grades as may be established by ordinance and which

shall include bureaus, divisions, and units as may be provided by ordinance or by regulations of the Police Chief consistent therewith. The initial Police Chief will be the person serving as Chief of the Fayetteville Police Department on December 31, 2008.

**Section 8.202. Responsibilities and powers of Metropolitan Police Department.**

The Police Department shall be responsible within the area of the Metropolitan Government for the preservation of the public peace, prevention and detection of crime, apprehension of criminals, protection of personal and property rights, and enforcement of the laws of the State of Tennessee and ordinances of the Metropolitan Government. The Police Chief and other members of the Police Force shall be vested with all the power and authority belonging to the office of constable by the common law and also with all the power, authority, and duties which by statute may now or hereafter be provided for police and law enforcement officers of counties and cities.

**Section 8.203. Appointment, powers and duties of the Police Chief.**

The Police Department shall be under the general management and control of a Police Chief thereof, who is designated the Police Chief. The Police Chief shall be appointed, as set out in Section 5.03(3), except the initial Police Chief who is selected as set out in Section 8.201.

The Police Chief shall be the principal conservator of the peace for the Metropolitan Government. The Police Chief shall appoint and remove all employees of the Department, with the approval of the Administrator, and shall have power to make rules and regulations for the conduct of the business of the Department, consistent with this Charter and the laws of the Metropolitan Government. Disobedience of the lawful commands of the Police Chief or violations of the rules and regulations made by the Chief, pursuant to ordinances or the laws of the State of Tennessee and with the approval of the Metropolitan Administrator, shall be grounds for removal or other disciplinary action as provided in such rules and regulations.

The Police Chief shall establish zones and precincts, and assign members of the Department to respective posts, shifts, details, and duties consistent with their rank. With the approval of the Metropolitan Administrator and in conformity with applicable ordinances, the Police Chief shall make policies and procedures concerning the operation of the Department, the conduct of the employees thereof, uniforms, arms, and other equipment. The Police Chief shall be responsible for the efficiency, discipline and good conduct of the Department. Orders of the Metropolitan Administrator relating to the Department shall be transmitted in all cases through the Police Chief or in the Police Chief's absence or incapacity through an employee designated as Acting Police Chief.

**Section 8.204. Special Police.**

The Police Chief may appoint, with discretion and upon application of any individual, firm, or corporation showing the necessity thereof, one or more Special Policemen, to be paid by the applicant, who shall have the powers and duties of Policemen while in or on the premises of such

applicant or in the actual performance of the duties for which employed. Special Policemen shall be subject to the rules and regulations of the Police Department and their appointments shall be revocable at any time by the Police Chief. Before entering upon the performance of their duties, Special Policemen shall execute and file with the Metropolitan Clerk a public officer's liability bond in such amount as may be fixed by resolution of the Metropolitan Council.

The Police Chief shall, if directed by ordinance, establish a School Patrol Division and/or a School Security Division.

**Section 8.205. Volunteer police reserve authorized.**

The Police Chief may, and if directed by ordinance, establish a voluntary auxiliary police reserve to serve without compensation in cases of emergency, and in aid of civil defense. Where established by the Police Chief, the Chief shall promulgate rules and regulations for the organization and operation thereof.

**Section 8.206. Qualifications of personnel.**

Every appointee shall be a citizen of the United States of America and shall comply with all applicable rules and regulations of the Tennessee Code Annotated and the Metropolitan Government.

**Section 8.207. Sheriff duties and responsibilities.**

The Sheriff, elected as provided by the Constitution of Tennessee, is hereby recognized as an officer of the Metropolitan Government. The Sheriff shall have the powers and exercise the duties prescribed by general law except that the Sheriff shall not be the principal conservator of peace for the Metropolitan Government. The Sheriff shall have custody and control of the Metropolitan Government Jail, Metropolitan Government Workhouse, and Metropolitan Government Juvenile Detention Facilities. The Sheriff shall be responsible for transportation of prisoners and for maintaining and serving papers for the Courts within the area of Metropolitan Government. The Metropolitan Council may by ordinance assign other duties and responsibilities to the Sheriff as may be reasonable and proper.

All fees, commissions, emoluments and perquisites of the Office of Sheriff shall accrue to the Metropolitan Government as the same as formerly accrued to Lincoln County.

**Section 8.208. Sheriff Office salaries.**

The salary of the Sheriff shall be set according to the law of the State of Tennessee. Salaries and qualifications of other employees of the Office of Sheriff shall be consistent with those of the Police Department.

**Section 8.209. Filling vacancy in the position of Sheriff; filling other vacancies.**

A vacancy in the office of Sheriff shall be filled as provided in general law. In the event of the absence or disability of the Sheriff due to illness, incapacity or other cause, a chief deputy assigned by the Sheriff for this purpose shall exercise the powers and duties of the Sheriff pursuant to this Charter until the Sheriff is present and able to resume his or her duties.

**CHAPTER 3. FIRE PROTECTION**

**Section 8.301. Fire Department created.**

There shall be a Fire Department for the Urban Services District, which shall consist of the Director (also referred to as Fire Chief) thereof, and such other employees of such ranks and grades as may be established by ordinance and which shall include bureaus, divisions, and units as may be provided by ordinance or by regulations of the Department consistent therewith. The initial Fire Chief will be the person serving as Chief of the Fayetteville Fire Department on December 31, 2008. The Fire Chief shall be an Assistant to the Commissioner of Commerce and Insurance under the authority of the Tennessee Code Annotated (TCA). Subsequent directors (Chiefs) shall be selected as set out in Section 5.03 (3) hereof.

**Section 8.302. Function of Fire Department.**

The Fire Department shall be responsible for the protection of life and property against fire within the Urban Services District and within such Special Services Districts as may be established by ordinance, that receive a higher level of fire protection. The Fire Department shall be responsible for rescue, fire prevention, hazardous material control and any and all functions pertaining to preventing loss of life and property. These primary functions are (1) to prevent fires from starting; (2) to prevent loss of life and property; (3) to confine a fire to the place of origin; (4) to extinguish the fire; and (5) to rescue trapped or injured victims.

The Fire Department may participate in the “First Responders Program” to ensure an organized, prompt, and efficient emergency medical response within the Urban Services District. A memorandum of understanding between the Lincoln Regional Emergency Medical Service and the Urban Services District Fire Department will be executed to ensure that both parties are operating under the authorization of the Tennessee Department of Health and Environment, pursuant to standards adopted by the Tennessee Emergency Medical Services Board under the authority of TCA Section 68-140-501 et seq.

**Section 8.303. Urban Fire Chief.**

The Fire Chief shall appoint and remove all employees of the Department and shall have power to make rules and regulations for conduct of the business of the Department, consistent with this Charter and the laws of the Metropolitan Government. Disobedience of the lawful commands of

the Chief or violations of the rules and regulations made by the Chief, pursuant to ordinances, or the laws of the State of Tennessee and with the approval of the Metropolitan Administrator, shall be grounds for removal or other disciplinary action as provided in such rules and regulations.

The Chief shall assign members of the Department to stations, shifts, details, and duties consistent with their rank. With the approval of the Metropolitan Administrator and in conformity with applicable ordinances, the Chief shall make policies and procedures concerning the operation of the Department, the conduct of the employees thereof, uniforms, arms, and other equipment. The Chief shall be responsible for the efficiency, discipline, and conduct of the Department. Orders of the Metropolitan Administrator relating to the Department shall be transmitted in all cases through the urban services Fire Chief, or in the Chief's absence or incapacity through an employee designated as Acting Urban Services District Fire Chief.

**Section 8.304. Fire Prevention.**

The Fire Chief shall recommend to the Metropolitan Council for adoption as ordinances such rules and regulations for the prevention of fire as may be necessary and proper. In the enforcement of such rules and regulations, when adopted, the Department shall act through the State Fire Marshall.

**Section 8.305. Qualifications of personnel.**

All members of the department shall be citizens of the United States, shall meet such physical requirements as shall be prescribed and shall comply with all applicable rules and regulations.

**Section 8.306. Volunteers.**

The Fire Chief may provide for the use of volunteer firefighters within the Urban Services Districts to augment the paid firefighters. The Metropolitan Council shall provide for pay for these volunteers to defray expenses incurred in training, drills and answering fire alarms.

**Section 8.307. Volunteer Fire Departments.**

Outside of the Urban Services District fire protection may be provided by volunteer fire departments incorporated under the laws of Tennessee and the Internal Revenue Code of the United States.

**Section 8.308. Volunteer Fire Chief.**

The Fire Chief in charge of Urban Services shall serve as the fire chief of all volunteer fire departments outside the Urban Services District or any Special Services Districts to coordinate their services.

**Section 8.309. Fire Districts.**

Districts of coverage of volunteer fire departments may be the fire districts previously established by Lincoln County in effect upon December 31, 2008. The designated volunteer fire department within each fire district shall have the primary responsibility for fire prevention and suppression within its district. The districts boundaries may be altered, split, or merged by action of the Metropolitan Council or upon request by three (3) or more of the existing Volunteer Departments.

**Section 8.310. Mutual Aid Agreements.**

The Metropolitan fire departments may aid volunteer fire departments located in Lincoln County in accordance with agreements between the fire chief (director) and the local volunteer fire departments authorized by ordinance.

The Metropolitan Government may enter into mutual aid agreements with other units of government in Tennessee and in the State of Alabama consistent with state law.

**Section 8.311. Special Services Districts.**

A Special Services District may be created to provide a higher level of fire protection for the General Services District outside of the Urban Services District, exclusive of any incorporated municipality, and exclusive of any other Special Services Districts previously established.

**CHAPTER 4. PUBLIC WORKS**

**Section 8.401. Director, divisions, duties.**

The Metropolitan Government shall have a Department of Public Works, headed by a director, selected as provided in Section 5.03(3), herein, for the selection of department heads, except for the initial director. The initial director shall be the Lincoln County Road Superintendent on December 31, 2008, who shall be subject to all provisions of this Charter respecting department heads. This department may be divided into such divisions as may be provided by ordinance, except that the Public Works Department shall initially include a Division of Public Roads and Streets and a Division of Sanitation. The Director of Public Works shall have general management and control of the divisions and units of the department and shall appoint and remove, subject to the approval of the Administrator, all employees of the Department.

**Section 8.402. Responsibilities, functions.**

The department of public works shall be responsible for:

- (a) The design, construction and maintenance of signage/traffic signals, repair and cleaning of roads, rights-of-way, highways, streets, alleys, storm sewers, bridges, viaducts, other public places, and other related structures controlled by the Metropolitan Government;
- (b) The collection and disposal of garbage and other refuse, maintenance and operation of facilities for their disposal, and the regulation of any private operators performing such services for the Metropolitan Government under contract;
- (c) Animal control, including animal shelters, stray animals and dead animals;
- (d) Control of the servicing, maintenance and repair of equipment, including automotive equipment, except those services assigned by ordinance in whole or in part to another department of the Metropolitan Government;
- (e) Construction of capital improvement projects, except schools, by its own employees or by a procurement process with outside contractors, whenever so authorized by the Metropolitan Administrator;
- (f) Developing and administering the budget for each service district.

**Section 8.403. Assignment of additional functions.**

The Metropolitan Council may by ordinance assign the following functions to the department of public works:

- (a) The administration and enforcement of all laws, ordinances and regulations relating to permits and licenses, including those relating to weights and measures, electrical installations, building and construction, plumbing, taxicabs and public conveyances, miscellaneous industrial and commercial uses, elevators, gas installations, and public gatherings; provided that licenses and permits issued shall be approved or regulated by such other departments, offices, agencies, boards, commissions or authorities of the Metropolitan Government, as may be provided from time-to-time by ordinances;
- (b) Making and preparing of such plans, specifications, estimates, surveys, maps, designs, drawings and reports as may be requested from time-to-time by the Metropolitan Administrator or by the head of any department or any board, commission, authority or agency of the Metropolitan Government acting with the approval of the Metropolitan Mayor, and supervision of the execution and performance of all contracts for capital improvement projects, the plans and specifications for which were prepared by the Department of Public Works;
- (c) Such other powers and duties as are assigned to the Department by this Charter, or may be assigned thereto by ordinance, or by action of the Metropolitan Administrator.

**Section 8.404. Inter-local solid waste authority (ISWA).**

The existing Solid Waste Authority (ISWA) and Board thereof and the contractual agreements pertaining thereto, if in existence on December 31, 2008, are hereby recognized and shall continue in accordance with their terms and provisions. References to the County of Lincoln and the City of Fayetteville in any pre-existing contract, agreements, by-laws, resolutions or the like, pertaining to the financing and allocation of expense for such system, or any other matters, shall refer and pertain to and be construed to mean the General Services District and Urban Services District, respectively.

## **CHAPTER 5. DEPARTMENT OF EMERGENCY MANAGEMENT**

### **Section 8.501. Department of Emergency Management created.**

There shall be a Metropolitan Department of Emergency Management, which will consist of a Director and other personnel and employees as may be provided by ordinance or by regulations of the director consistent with the ordinance. The Director of Emergency Management shall have the responsibility for the general management and control of the Department, and shall have the power to make rules and regulations for the administration of the Department, consistent with ordinances of the Metropolitan Government and general law. The initial director shall be the person serving as the Director of Emergency Management for Fayetteville-Lincoln County on December 31, 2008. The Administrator shall appoint subsequent Directors.

### **Section 8.502. Responsibilities of department.**

The Department of Emergency Management shall have the responsibilities and obligations to combat any disaster, either natural, man-made or both, and to protect the health and safety of persons and property, and to provide emergency assistance to victims of such disasters as empowered by Tennessee state law. Emergency management means the preparation for, the mitigation of, the response to, and the recovery from, emergencies and disasters. Specific emergency management responsibilities include, but are not limited to:

- (A) Reduction of vulnerability of people and communities of Lincoln County to damage, injury and loss of life and property resulting from natural, technological or man-made emergencies.
- (B) Preparation for prompt and efficient response and recovery to protect lives and property affected by emergencies.
- (C) Response to emergencies using all systems, plans and resources necessary to preserve the health, safety and welfare of persons or property affected by the emergency.
- (D) Recovery from emergencies by providing for the rapid and orderly start of restoration and rehabilitation of persons and property affected by emergencies.
- (E) Provision of an emergency management system embodying all aspects of pre-emergency preparedness and post emergency response, recovery and mitigation.
- (F) Assistance in anticipation, recognition, appraisal, prevention and mitigation of emergencies, which may be caused or aggravated by inadequate planning for, and regulation of, public and private facilities and land use.
- (G) Implement training programs to improve the ability of local emergency management personnel to prepare and implement emergency plans and programs.

**Section 8.503. Appointment of the director.**

The Director of Emergency Management Department shall be appointed, as prescribed in Section 5.03 (3), by and report to the Metropolitan Administrator.

**Section 8.504. Filling other vacancies.**

The Director, with the approval of the Administrator, shall appoint and remove all employees of the Department.

**CHAPTER 6. DEPARTMENT OF PARKS AND RECREATION.**

**Section 8.601. Appointment of the director.**

The Director shall be appointed as provided in Section 5.03(3). The initial director shall be the person serving as Director of the City of Fayetteville Department of Parks and Recreation on December 31, 2008. Divisions of the Department may include maintenance, athletics, aquatics and recreation. The Director may appoint a superintendent of each division with individual responsibilities specified by the Director. The Director shall be the chief administrative officer in charge of the management of public parks, playgrounds and other recreational areas and of a comprehensive recreation program for the area of the Metropolitan Government, and he/she shall, with the approval of the Administrator, hire and remove all employees.

**Section 8.602. Department responsibilities.**

The Director is responsible for planning, scheduling and direction of overall recreational activities, cooperation with community improvement centers and other volunteer services, cooperation and promotion of all athletic programs for all citizens, submission of annual departmental budget and coordination of public relations and other such functions as set forth by ordinance. The budget of the Department shall include funds for recreational services throughout the entire metropolitan area.

**Section 8.603. Parks and recreation advisory board.**

The current Recreation Boards established by the City of Fayetteville and the County of Lincoln will be combined and continue to function as an advisory board to the Director of Parks and Recreation until changed by ordinance.

**ARTICLE 9. PUBLIC SCHOOLS**

**Section 9.01. School system established.**

A system of public schools for the Metropolitan Government is hereby established, which shall be administered and controlled by the Metropolitan Board of Education, sometimes in this article called the “Board”.

**Section 9.02. Metropolitan Board of Education—term and selection of members; salary.**

The Lincoln County Board of Education and the City of Fayetteville Board of Education shall be superseded by the Metropolitan Board of Education, which will possess all the powers, duties, prerogatives and functions of the county and city school boards. This process shall take place at midnight on December 31, 2008.

The Board shall be composed of eight (8) members, one (1) member elected from each Council District for a term of four years, except that in order to have staggered terms, the members initially elected from Districts 1, 3, 5 and 7 shall be elected for a term of two years and thereafter for four years. No person shall be eligible to serve as a member of the Board unless (a) they have attained the age of twenty-five (25) years at the beginning of their term; (b) shall have been a resident of the area of the Metropolitan Government for a period of two (2) years and one (1) year in the district from which they are elected and shall continue to reside therein during their period of service. In the event of redistricting, the district resident qualification shall not apply if the candidate has maintained the same address for the required period. The initial Board shall take office on January 1, 2009.

In the event a vacancy should occur for any reason other than the expiration of the term of a board member, the Metropolitan Council shall be empowered to appoint, by a majority vote of the remaining membership, a person residing within the district in which the vacancy occurs, to serve until the next countywide election, at which time a person shall be elected for the remainder of the unexpired term.

Compensation for Members of the Metropolitan Board of Education shall be the same as that of the Metropolitan Council Members.

**Section 9.03. Powers.**

The Board is authorized to do all things necessary or proper for the establishment, operation and maintenance of an efficient and accredited consolidated school system for the Metropolitan Government and shall have all powers and duties conferred by general law upon county and city boards of education not inconsistent with this charter.

**Section 9.04. Employment of Director of Schools.**

The Board is authorized to employ a Director of Schools as the chief administrative employee of the Board, and to enter into an employment contract with such person for a period not exceeding four (4) years and for a compensation to be determined thereon. The Board is authorized to assign to the

Director of Schools, such duties and responsibilities as are necessary, usually or properly assigned to a Director of Schools.

**Section 9.05. Pension rights of educational employees of county and city protected.**

All rights and benefits which any person has acquired under pension plans for teachers and nonteaching employees of the county and city school systems shall be preserved and continued. Every person whose rights are preserved and continued by this section shall be entitled to participate in the applicable pension plan on the terms and conditions in effect immediately prior to January 1, 2009, except as such terms and conditions may be changed by applicable general law.

**Section 9.06. Tenure rights of county and city teachers protected.**

Any person employed in the school systems of the City of Fayetteville and of Lincoln County, who has acquired tenure as a teacher under the Tennessee Code Annotated shall retain such tenure with the Board established by the consolidation of said school systems.

**Section 9.07. No diversion of funds.**

No funds which have been appropriated for the use of or transferred to the Board shall be diverted from that use for any other purpose.

**Section 9.08. Transfer of school funds within school budget.**

The Board shall have power at any time to transfer funds between line items within major categories of its budget. It shall also have power to make transfers of fund to, from, or between major categories in its budget, provided such transfers are not inconsistent with the general law.

**Section 9.09. Transfer of school fund from general funds; borrowing money.**

The Metropolitan Council, by resolution, may transfer funds to the school fund from the general fund or general accounts or the Metropolitan Government or may issue short term anticipation notes to provide such funds, if in its judgment it is necessary and proper to provide temporary advances or transfers for the maintenance and operation of the schools. Such temporary advances or transfers shall be repaid or restored out of school funds during the ensuing year.

**Section 9.10. Acquisition and sale of property.**

All school property heretofore belonging to the County of Lincoln and all school property heretofore belonging to the City of Fayetteville shall belong to the Metropolitan Government for the use and benefit of the Board, and the title to all school property hereafter acquired shall be vested in the Metropolitan Government for the use and benefit of the Board. The Board is hereby designated as the legal custodian of all school property; and when in the judgment of said Board any property held by it is no longer suited or needed for school purposes, said Board, with the approval of the Metropolitan Council, is authorized to direct the Director of Finance and Purchasing to sell such

property and have the proceeds credited to the unappropriated fund balance of the school fund of the Metropolitan Government.

**Section 9.11. No diminution of services.**

This Charter shall ensure no diminution in the level of educational services heretofore provided in the school systems of the City of Fayetteville and of Lincoln County. This Charter also shall guarantee that the salary schedule under which the teachers and other employees of a component part of any Metropolitan School System were employed shall continue to apply for such teachers and other employees, and no such salary schedule may be lower than it was prior to this Charter. This Charter shall provide that within three (3) years after January 1, 2009, a new salary schedule shall be established for such Metropolitan School System that shall be no lower than the highest salary schedule maintained by a component part of the system prior to the establishment of such Metropolitan School System.

**ARTICLE 10. HEALTH CARE SYSTEM**

**Section 10.01. Metropolitan Health Care System Board created.**

There shall be a Metropolitan Health Care System Board, which sometimes in this article is called the “Board”. The Board shall administer and control all health care facilities for the Metropolitan Government of Fayetteville-Lincoln County Tennessee, including but not limited to hospitals, rehab centers, ambulance services, nursing homes, and home health and hospice facilities.

**Section 10.02. Qualifications, term and selection of members.**

The Board shall be composed of five (5) members. One (1) member shall be Doctor of Medicine certified for practice as such by the State Board of Medical Examiners and licensed by the State Licensing Board for the Healing Arts, and shall have had not less than five (5) years’ experience in the active practice of his or her profession. His or her initial term shall be for two (2) years. The four (4) remaining members of the Board shall be chosen without reference to occupation or profession.

The members of the Board shall be appointed by the Mayor and confirmed by a majority of the whole membership of the Council. They shall be appointed for a term of five (5) years each, provided that, of the initial Board one member shall be appointed for one year, one member shall be appointed for two years, one member shall be appointed for three years, one member shall be appointed for four years and one member shall be appointed for five years. The current Board members shall be retained until their term expires.

**Section 10.03. Functions.**

The Board, through the Director of Health Care System, shall exercise all the administrative functions of the Metropolitan Government pertaining to the operation of all institutions owned, maintained or operated by the Metropolitan Government for the examination, treatment, convalescence, detention or transportation of the sick, injured or physically ill. Said Board shall determine and establish the policies to be followed in the exercise of its function and it may receive, accept and provide for the use of funds from any governmental agency, by any public or private institution or by any individual.

**Section 10.04. Director of the Health Care System—Appointment and qualifications.**

The Board shall either appoint a Director of the Health Care System or may enter into a contract with a Health Care Management company, which would employ a director, and may enter into a contract with such person or Health Care company for a period not exceeding five (5) years, and at a compensation to be fixed by the Board. The Director shall be a person who has had at least five (5) years’ experience in hospital administration or at least ten (10) years’ experience in some other executive or major administrative position.

**Section 10.05. Powers and duties.**

The director shall be the chief Executive officer of the Health Care System. He shall be responsible to the board for the administration and execution of its program and policies. Within the policies

set forth by the board, he shall have general management and control of all health care facilities administered by the board. With the approval of the board, pursuant to established personnel policies, and subject to the provisions of this article, he shall appoint and remove the other officers and employees of the Health Care System. He shall have such other powers and duties as may be authorized by general law, by this Charter, or by ordinance.

**Section 10.06. Personnel rules and regulations of the Board.**

The Board shall establish, adopt and make available for distribution, its rules, regulations and policy statement concerning its personnel policy, the manner and method of employing personnel, the requirements with reference to the qualifications of both professional and non-professional personnel, salaries, vacations, sick leave, job security, retirement policy and other related terms and conditions of employment by the board.

**Section 10.07. Pension and retirement rights under former city or county plans.**

All rights and benefits which any person has acquired as an employee of the Health Care System, Lincoln County, Tennessee, are preserved and continued as otherwise provided in this Charter.

**ARTICLE 11. SYSTEM OF EMPLOYEE BENEFIT PLANS**

**Section 11.01. Adoption.**

A system of employee benefit plans shall be adopted for officers and employees of the Metropolitan Government for whom such plans are not provided by other sections of this Charter.

**Section 11.02. Pension and retirement systems.**

The Council shall by ordinance not inconsistent with this Charter provide a system or systems for pension and retirement benefits of the Metropolitan Government. In discharging such obligations, the Council may establish new retirement and pension systems and shall provide for participation in existing systems or in systems provided for Metropolitan Government employees by general law. The Council shall maintain in a sound condition all employee retirement and pension systems hereby established or recognized.

**Section 11.03. Existing pension and retirement systems.**

Existing employee pension and retirement systems of the City of Fayetteville and Lincoln County, as of December 31, 2008, are hereby recognized and continued. Each such existing system shall continue in effect until there remain no individuals holding vested rights within the coverage of such system. Any retirement plan shall include provisions for consolidating such City and County pension and retirement systems and their administration, and shall include provisions to allow employees the option to transfer from any former City, County or other plan to the Metropolitan Government plan, including provision for fund transfers relating to individual transfers, where appropriate.

**Section 11.04. Separate funds; payments from funds; reports.**

All assets of any fund maintained in connection with the system of Employee Benefit Plan of the employees of the Metropolitan Government, as well as the Retirement Plans listed in Sections 11.02 and 11.03, shall be maintained separate and apart from all other funds of the Metropolitan Government. The Metropolitan Trustee shall keep a separate account for each such fund, and a separate record indicating each disbursement of such fund. The Metropolitan Trustee shall submit to the Council financial reports and such other reports as the Council may require.

**ARTICLE 12. METROPOLITAN GENERAL SESSIONS COURT**

**Section 12.01. Metropolitan General Sessions Court created.**

There is hereby created and established a Metropolitan General Sessions Court in and for the County of Lincoln, State of Tennessee, which shall be designated as Metropolitan General Sessions Court of the Metropolitan Government of Fayetteville-Lincoln County.

**Section 12.02. Merging of Courts; jurisdiction and authority; Offices of City Judge abolished.**

The City Court of Fayetteville is hereby merged with the Metropolitan General Sessions Court. Said merger will take effect at midnight, December 31, 2008.

The General Sessions Court is hereby vested with all the jurisdiction, and shall exercise all the authority conferred by law upon General Sessions Courts of the State of Tennessee. The Metropolitan General Sessions Court shall have exclusive jurisdiction to hear, try and dispose of cases involving the violation of any and all ordinances, regulations, resolutions and private acts of the Metropolitan Government, and to impose fines and civil penalties for said violations. It shall have exclusive jurisdiction to hear, try and dispose of cases in which violations of traffic laws, ordinances, regulations and resolutions of the Metropolitan Government are charged, or in which offenses are charged under State law regulating the operating, maintenance of motor vehicles, and to impose fines for violation of such laws, ordinances, regulations and resolutions, and to suspend the driver's license of any person found guilty of such violation as the law requires. Said Court shall have jurisdiction to bind over offenders to the grand jury where probable cause is found to exist in cases involving violation of the criminal laws of the State, and, in lieu of bond, to commit to jail persons so charged. The Court shall have jurisdiction over all criminal cases, civil cases, traffic violations cases and juvenile cases to the extent now and hereafter conferred by general act upon the General Sessions Court. The Judge of the General Sessions Court shall also serve as Judge of the Juvenile Court.

The Office of City Judge for the City of Fayetteville shall be abolished at midnight on December 31, 2008.

**Section 12.03. Number of judges; qualifications.**

There shall only be one (1) judge for said Court as provided in Section 12.01; the judge shall possess the qualifications and shall be duly elected for the term of office as provided in Article 6, Section 4 of the Constitution of the State of Tennessee for judges of inferior courts. Additional judges may be provided by ordinance approved by a 2/3 majority of the Council. In addition to the qualifications prescribed in the Constitution of the State of Tennessee, the judges of said court shall have been licensed to practice law by the Supreme Court of Tennessee for not less than five (5) years prior to election to office, and shall have been residents of Lincoln County, Tennessee, for not less than the same period; and shall not be less than thirty (30) years of age at the time of their qualification; providing, that the provisions hereinafter set forth regarding age shall not apply to judges holding office at the time this amendment is adopted as provided further herein.

**Section 12.04. Election; term of office.**

The judge, as of December 31, 2008, of the Lincoln County General Sessions Court shall serve the Court until his or her tenure of office expires. The judge of the Court shall be elected for a term of eight (8) years.

**Section 12.05. Oath of office.**

The oath of office prescribed for the judges of said Court shall be the same as that prescribed for Circuit Judges and Chancellors and shall be taken to and filed with the Court Administrator of the Metropolitan General Sessions Court.

**Section 12.06. Compensation; restrictions on practice of law.**

The judge of the Court shall be paid the same compensation, and shall be under the same restriction as to the practice of law as provided by general law for judges of General Sessions Court of the size of Lincoln County; and such compensation shall be paid out of the general funds of the Metropolitan Government.

**Section 12.07. Retirement benefits; removal from office.**

The judge of said Court shall be eligible for all retirement benefits as provided by general law for county paid judges. The judge will participate in the State Pension System for county paid judges as provided by general law. The judge of said Court shall be subject to removal from office as prescribed by law for Circuit Judges and Chancellors.

**Section 12.08. Separate dockets to be kept for civil, criminal and traffic cases.**

Separate dockets shall be kept in said Court for civil, criminal and traffic cases, and shall be in such form and kept in such manner as the judge shall prescribe.

**Section 12.09. Rules and regulations for bondsmen; rules for release of persons on own recognizance bonds and deposit of driver's license.**

The judge shall prescribe and shall cause to be prescribed such reasonable rules and regulations for professional bondsmen undertaking to do business before the Court, as may be necessary for the orderly and expeditious conduct and operation of said Court, as provided in the laws of the State of Tennessee. Said judge shall also promulgate and publish rules for release of persons charged with violation of State law on their own recognizance bonds and/or the deposit of driver's license in lieu of bond for persons charged with the violation of traffic laws.

**Section 12.10. Persons authorized to prosecute cases before Court.**

The legal counsel of the Metropolitan Government is hereby authorized to prosecute before the Court, any and all cases involving violations of ordinances, regulations, resolutions and private acts of the Metropolitan Government. The District Attorney, or duly authorized representatives are hereby authorized to prosecute before the Court any and all violations of State law filed in or pending before said Court.

**Section 12.11. Clerks appointment; Chief Deputy Clerk; salaries; bonds; Offices of City Court Clerks abolished.**

The Offices of City Court Clerks shall be abolished and the Office of Circuit Court Clerk shall serve as Clerk of the Metropolitan General Sessions Court and Juvenile Court. The Circuit Court Clerk shall designate a chief deputy clerk for the General Sessions and Juvenile Court separate from the chief deputy clerk for the Circuit Court. The Circuit Court Clerk shall also appoint all necessary deputy clerks for handling the criminal and civil cases of the Metropolitan General Sessions Court. The salary of all personnel selected and serving the Metropolitan General Sessions Court, as hereinabove provided shall be established in accordance with the metropolitan pay schedule plan for the Metropolitan Government of Fayetteville-Lincoln County, Tennessee. The deputy clerks shall be required to give bond upon the assignment of their duties of office, which shall be in the manner and amounts set by general law.

**Section 12.12. Authority of deputy clerks.**

The deputy clerks are hereby authorized to administer oaths, to take appearance and appeal bonds, when the amount thereof has been set by a judge, and to issue all process authorized by law. All process shall be issued in the name of the State of Tennessee and may be served by any law enforcement officer authorized by law for such purpose or as may be provided by general law.

**Section 12.13. Costs and fees.**

In any and all matters, the costs and fees of the Court shall be as follows:

- a. In cases involving violation of ordinances, regulations, resolutions or private acts of the Metropolitan Government, such costs and fees as may be required by ordinance by the Metropolitan Council;
- b. In civil cases, suits and actions, such cost and fees as may be required by law; and
- c. For violation of State law, such costs and fees as may be required by general acts of the General Assembly of the State of Tennessee for General Sessions Courts. There shall be published a schedule of set costs and fees, as the judge shall direct. The fees and other compensation of the Sheriff and deputies, Game Wardens and the State Highway Patrol, for the execution and service of writs and process of the Court, shall be the same as those required by law.

Fees and compensation as may be due for service rendered by the court shall be paid to the respective clerks servicing said court. Costs, fees and mileage of witnesses and fees, commissions and emoluments of the Sheriff and deputies, Game Wardens, the State Highway Patrol and other officers for service rendered to the Court, and the fines and forfeits imposed by the Court and all other funds coming to the Court, shall be received, accounted for and disbursed by the respective clerks as provided by law.

**Section 12.14. Disposition of monies and receipts.**

The Court Clerk shall deposit to the respective account, all funds and receipts accruing to the Court under Section 12.13, and any and all other monies and receipts accruing to said Court. Any and all disbursements from such account shall be made upon orders of the Court and as required by law, or in their absence, inability or incapacity, by such person as the judge shall designate. The judge may authorize the establishment of such bank account or accounts as may be necessary for the management of funds held as judgments in civil cases.

**Section 12.15. Probation Department or Division authorized.**

There shall be a division of probation with the General Session Court which shall be a division of the Metropolitan Government. The Judge of the General Sessions Court shall appoint a division director and such other personnel as the director/division may require which is within the budget for such division approved by the Metropolitan Council.

**Section 12.16. Appeals.**

An appeal from a civil judgment, or judgment for any ordinance, regulation, resolution or private acts, may be taken to the Circuit Court of Lincoln County, Tennessee. Such appeal shall be taken upon bond, or in lieu of bond, on the paupers oath as provided by general law, within the time and in the manner prescribed by law for appeals from Courts of General Sessions to the Circuit Courts, and appeals from writs of certiorari from judgments of the Metropolitan General Sessions Court shall likewise be made in accordance with law.

Appeals on behalf of the defendant from a judgment in any criminal case tried by the Court may be taken to the Circuit Court of Lincoln County, Tennessee. Such appeal shall be prayed and granted within ten (10) days from the rendition of the judgment, or as otherwise provided by law, and shall not act as a stay or supersedeas of the judgment, unless the defendant shall execute an appeal bond with good and solvent surety, to pay the fines and costs and other costs adjudged upon appeal. Provided, that this Section shall not be construed to require the Metropolitan Government to make bond to perfect any appeal taken hereunder. Any such appeal shall be perfected by written notice from the Metropolitan Attorney or any assistant thereof, addressed to the Court Clerk of the Metropolitan General Sessions Court.

**Section 12.17. Court to take judicial notice of Charter and General Services District, Urban Services Districts and Special Services Districts.**

In addition to any matters of which the Court is authorized, empowered and required to take judicial notice by law, said Court shall take judicial notice of the Charter of the Metropolitan Government, and the General, Urban and Special Services Districts of said Metropolitan Government as set forth in the Metropolitan Charter.

**Section 12.18. Rules, practices and procedures of Court.**

The laws regarding pleading and practice in civil cases, and the issuing of writs and process in civil cases in the General Sessions Courts of this State upon the effective date of the Metropolitan Government shall be applicable to and shall govern practice and procedures in the Court until such time as rules, practices and procedures are promulgated.

**Section 12.19. Transfer of files, dockets, funds, suits, etc., from former Courts.**

On January 1, 2009, any and all files, dockets, records, equipment, funds and criminal and civil cases, suits, actions and outstanding writs and process, then existing in the General Sessions court of Lincoln County, Tennessee, and the City Court of Fayetteville, shall be deemed to have been transferred to the Metropolitan General Sessions Court, and said Court shall have jurisdiction and authority to hear and determine all undisposed cases under this Section, as though all such cases had originated in such Court created herein.

**ARTICLE 13. CONSTITUTIONAL OFFICES**

### **Section 13.01. Constitutional offices continued.**

All County Constitutional offices except the offices of Metropolitan Mayor and County Commissioners shall continue as offices of the Metropolitan Government. These offices, Assessor of Property, County Clerk, Register, Sheriff, Trustee and clerks of the courts as established by the Tennessee Constitution, are continued as offices of the Metropolitan Government. The qualifications, method of election or appointment, filling of vacancies, and term of office for these constitutional officers shall be as provided by general law of the State of Tennessee. The duties of the Assessor of Property, County Clerk, Register of Deeds, County Trustee and clerks of court, being the Circuit Court Clerk and the Clerk and Master, shall include those duties required by general law and such other duties as are provided by this Charter or by private act. The duties of the Sheriff shall be those provided in Section 8.207 of this Charter. All of the fees, commissions, emoluments, and perquisites of these constitutional offices shall accrue to the Metropolitan Government and be remitted to the County Trustee monthly or as provided by ordinance. All expenses for the conduct of these constitutional offices shall be paid from the general funds of the General Services District in accordance with the annual operating budget.

### **Section 13.02. Assessor of Property.**

The Assessor of Property is responsible to discover, list, classify and value property within the jurisdiction of Lincoln County for tax purposes. Taxable property is divided into two classes, real property (land and all buildings, structures, and improvement to the land) and personal property (movable machinery, equipment, fixtures, furniture and other items).

The Assessor of Property is also required to maintain property maps of the County under the supervision of the State Division of Property Assessments, to note each sale of real property when the deed is recorded and to keep the records and maps updated with the new property owner's name.

### **Section 13.03. County Clerk.**

The County Clerk, in addition to the duties provided by the general law, shall serve as the clerk and secretary of the Metropolitan Council and shall maintain the minutes of that body and be the official custodian of all resolutions and ordinances of the Metropolitan Government, all executive proclamations, and perform such other duties as may be prescribed by ordinance. All tax collection duties of the County Clerk not relating to motor vehicles may be transferred by ordinance of the Metropolitan Council to the County Trustee.

### **Section 13.04. Register of Deeds.**

The Register of Deeds is responsible for the filing or recording of documents that affect the legal status of real and personal property. These documents include Warranty Deeds, Deeds of Trust, Uniform Commercial Code filings with respect to fixtures, Releases, Powers of Attorney, Liens, Plats, Amendments and other miscellaneous documents designated by state law to be recorded by the Register of Deeds. The Register is also responsible for collecting transfer and mortgage taxes

on the appropriate documents with all fees and taxes being transferred to the County and State at the end of each month.

**Section 13.05. County Trustee.**

The County Trustee shall have all the powers of enforcement provided to collection officers by the general law or applicable private act. The primary functions of the Trustee are:

1. Collection of the County's property taxes;
2. Accounting for and disbursing County funds; and
3. Investing idle cash funds.

In addition to these duties, the Trustee disburses sales tax revenues and may collect municipal property taxes and other state and local taxes, such as local hotel/motel tax. The Trustee must keep detailed records of the accounts of the office.

Any fund received by the Trustee which was initially established to secure the payment of particular debts, such as sinking funds pertaining to bond issues, retirement funds created to protect particular groups of employees, and all other such funds shall be kept separate and intact by the Trustee and invested and used in accordance with the obligations attached to each such fund, whether such obligation shall have arisen from Charter provisions, statutes, bond resolutions, employment contracts or any other obligations recognized as legally binding.

In addition to the duties provided by the general law, the Metropolitan Council may, by ordinance, require the County Trustee to collect any revenues due to the Metropolitan Government that the general law does not require to be placed with some other officer, excepting privilege taxes relating to motor vehicles.

**Section 13.06. Circuit Court Clerk and Clerk and Master.**

The Clerk of the Circuit Court shall also serve as Clerk of the General Sessions Court, Juvenile Court and such other courts of county-wide jurisdiction as may be established, with the exception of the Chancery Court. The Clerk and Master shall continue as the Clerk of the Chancery Court. This section shall not be construed as altering the clerking responsibilities of the Clerk and Master regarding probate jurisdiction.

## **ARTICLE 14. PUBLIC UTILITIES**

### **CHAPTER 1. METROPOLITAN BOARD OF PUBLIC UTILITIES**

#### **SECTION 14.101. General Provisions.**

The Metropolitan Government shall be empowered to construct, purchase, acquire by condemnation or otherwise lease, own, operate and maintain utility infrastructure including but not limited to electric, gas, water, sewer, and telecommunications for public benefit. The Board of Public Utilities shall oversee these operations and be empowered to fix and regulate the charges for such services in accordance with the express authority granted the City of Fayetteville, for the Charter of the City of Fayetteville in effect on December 31, 2008.

Effective January 1, 2009, all assets, authorities, liabilities, and responsibilities of the Lincoln County Board of Public Utilities shall be transferred to the Metropolitan Board of Public Utilities.

In furtherance of all of the foregoing, it is the intent of this Charter to comply with the provisions of Tennessee Code Annotated Section 7-2-108(a) (22) (Tennessee Metropolitan Government Law).

Each of the several provisions of said private acts, ordinances and Charter provisions of the former charter of the City of Fayetteville is adopted by this Charter as being applicable to the Metropolitan Board of Public Utilities. It is the intent of the Charter to vest full authority over the Board of Public Utilities in the Metropolitan Council as to the same extent that such power and authority of the former Board of Mayor and Aldermen of the City of Fayetteville previously existed over the Fayetteville Board of Public Utilities.

#### **SECTION 14.102. Membership.**

All members of the Metropolitan Board of Public Utilities must be residents of Lincoln County. The initial membership of the Board of Public Utilities shall be the members of the Fayetteville Board of Public Utilities on December 31, 2008. Appointments to the Metropolitan Board of Public Utilities after January 1, 2009, shall be made so as to maintain a Board membership of seven (7) members appointed by the Metro Mayor and approved by the Metro Commission. Two (2) of the appointees shall be residents of the Urban Services District. Four (4) of the appointees shall own property and reside outside the Urban Services District. The seventh member of the Board of Public Utilities shall be a member of the Metropolitan Council who shall reside in the Urban Services District and whose term of office shall coincide with his/her term on the Metropolitan Council. Except for the seventh member described above, the members of the Metropolitan Board of Public Utilities shall not be members of the Metropolitan Council.

#### **SECTION 14.103. Terms of Office.**

Members of the Metropolitan Board of Public Utilities shall serve terms of four (4) years.

This charter recognizes that initial Board members of the Metropolitan Board of Public Utilities will have been previously appointed to three (3) year terms of office on the Fayetteville Board of Public

Utilities. These three (3) year terms of office will remain in force until expired, at which time reappointment of an existing Board member or appointment of a new Board member shall be for a term of four (4) years.

**SECTION 14.104. Compensation.**

Members of the Metropolitan Board of Public Utilities shall receive such compensation as may be provided by ordinance. The Metropolitan Council may adjust the compensation, as it deems necessary.

**SECTION 14.105. Organization.**

The Metropolitan Board of Public Utilities shall elect a chairman, vice-chairman, and secretary/treasurer from among its members and shall appoint a general manager to manage the day-to-day operations of the utility system. Other positions may be created and staffed as deemed necessary for efficient operation of the system.

**SECTION 14.106. Rate Structure**

Utility rates shall be set by the Metropolitan Board of Public Utilities, individually for each utility and each service district, based upon the cost of operation, debt retirement and expansion cost of that district. Funds generated within any services district may not be transferred to other services district. Any excess funds generated by a services district must be held in escrow until such time the funds are returned to that Services District, either in rate reduction or facility expansion.

**CHAPTER 2. PUBLIC UTILITY FRANCHISES**

**Section 14.201. Franchises granted only by ordinance.**

Only the Metropolitan Council thereof shall grant public utility franchises and all renewals, extensions and amendments by ordinance. No such ordinance shall be adopted until thirty (30) days after application has been filed with the Metropolitan Council, nor until a full public hearing has been held thereon.

**Section 14.202. Restrictions on all future public utility franchises and reserved powers of Metropolitan Government.**

No exclusive franchise shall ever be granted and no franchise shall be granted for a longer term than twenty (20) years. No such franchise shall be transferable, directly or indirectly, except with the approval of the Metropolitan Council by ordinance.

All public utility franchises, whether provided for in the ordinance or not, shall be subject to the right of the Metropolitan Government:

- a. To repeal the same for misuse or nonuse, or for failure to comply therewith;

- b. To require proper and adequate extension of plant and service and the maintenance thereof, at the highest practicable standard of efficiency;
- c. To establish reasonable standards of service and quality of products, and prevent unjust discrimination in service or rates;
- d. To make independent audit and examination of accounts at any time, and to require reports annually;
- e. To require continuous and uninterrupted service to the public, in accordance with the terms of the franchise, throughout the entire period thereof; and
- f. To impose such other regulations as may be determined by the Metropolitan Council to be conducive to the safety, welfare and accommodation of the public.

**Section 14.203. General requirements.**

All public utility franchises shall make provision for fixing rates, fares and charges, and for readjustments thereof, at periodic intervals of not more than five (5) years, either by arbitration upon terms to be specifically set forth in the franchise, or by state agency, at the option of the Metropolitan Government. The value of the property of the utility used as a basis for fixing such rates, fares and charges shall in no event include a value predicated upon the franchise, goodwill or prospective profits.

Every public utility may be required by the Metropolitan Government to permit joint use of its property and appurtenances located in the streets, alleys, and public places of the Metropolitan Government, by other public utilities, in so far as such joint use may be reasonably practicable, and in accordance with the provisions of the National Electrical Safety Code, upon payment of reasonable rental therefore; provided, that in the absence of agreement, upon application by any public utility, the Council shall provide for arbitration of the terms and conditions of such joint use and the compensation to be paid therefore, which award shall be final.

The right to use, control and regulate use of its streets, alleys, bridges and public places, and spaces above and beneath them, is hereby reserved to the Metropolitan Government, and every public utility franchise shall be subject thereto. Every public utility shall indemnify the Metropolitan Government against and pay for such damage as it causes to streets, alleys, bridges and other public places, by reason of excavations, cutting of pavements, construction work and the like, provided this obligation shall not obligate the public utility to pay for damages resulting from usual wear and tear or its ordinary use of such public places.

**Section 14.204. Recognition of franchises granted by County or City.**

This Charter and this Article shall not affect valid franchises heretofore granted, or transfers thereof, heretofore approved by Lincoln County or the City of Fayetteville, but the same shall continue in force and effect in accordance with their valid provisions, terms and conditions

**Section 14.205. Limited scope of Article.**

Nothing in this Article shall empower any agency of the Metropolitan Government to regulate rates, charges and services of any public utility whose rates, charges and services are regulated by the Tennessee Regulatory Authority or by the Tennessee Valley Authority, or by their successor agencies, or otherwise regulated in accordance with provisions of state or federal statutes or regulations.

**Section 14.206. Electric Membership Corporations and Municipals continued as public utilities.**

The areas of Lincoln County not served by Fayetteville Public Utilities on December 31, 2008, shall continue to be served by the Duck River Electric Membership Corporation and by the Pulaski Electric System, subject to provisions of the Charters of these Corporations.

## **ARTICLE 15. MISCELLANEOUS PROVISIONS**

### **Section 15.01. Change in salary of Metropolitan Government officers.**

The salary or compensation of officers, including the Mayor, Members of the Council, and other elected officials, whose salary or compensation is fixed by this Charter, may be changed by the Metropolitan Council and established as part of The General Pay Plan. The salaries of elected officials shall not be increased or diminished during the term for which they shall have been elected nor shall the constitutional officers be paid less than the minimum amount of compensation for such officers as established by general law.

### **Section 15.02. Redistricting of Councilmanic Districts.**

The Metropolitan Council shall change the boundaries of districts or redistrict the Metropolitan Government area entirely, if necessary, to apportion the Metropolitan Council so that the Members represent substantially equal populations. Where possible, district lines will be drawn to avoid splitting communities.

### **Section 15.03. Regulation and sale of alcoholic beverages not affected by Charter.**

The creation and establishment of the Metropolitan Government shall not alter the status of said County as to the legality of the manufacture, receipt, sale, storage, transportation, distribution and possession of alcoholic beverages. Any local option election(s), heretofore held in said County, shall continue to control until the status shall be subsequently altered by a local option election held pursuant to law. The Urban Services District and any Special Services District designated to be urban for this purpose, but not the General Services District, shall be deemed a municipality within the meaning of Tennessee Code Annotated, Section 57-3-105.

The Metropolitan Council shall have power and authority (a) for the General Services District to regulate and tax the manufacture, distribution and sale of beer and other alcoholic beverages of less than five percent (5%) to the same extent that governing bodies of counties now possess, or may hereafter possess, such power and authority, and (b) for the Urban Services Districts to regulate and tax the manufacture, distribution and sale of beer and other alcoholic beverages of less than five percent (5%), and also the manufacture, receipt, sale, storage, transportation, distribution and possession of other alcoholic beverages to the same extent that governing bodies of cities now possess, or may hereafter possess such power and authority.

### **Section 15.04. Limitations on political activity.**

This Section does not apply prior to January 1, 2009. Employees of the Metropolitan Government or elected or appointed officials of local governments other than the Metropolitan Government shall

not be allowed to hold the office of Metropolitan Mayor or Metropolitan Council Member. No member of any board, commission or authority shall hold any other remunerative office or position in the Metropolitan Government, except as otherwise specifically provided in this Charter. No elected or appointed official of any local government outside the Metropolitan Government Area shall hold any elected or appointed office in the Metropolitan Government. No employee of the Metropolitan Government will be involved in political activity while on the job being paid by the Metropolitan Government.

**Section 15.05. Housing Authority.**

The Fayetteville Housing Authority shall have the same relationship to the Metropolitan Government as the Fayetteville Housing Authority previously had to the City of Fayetteville. Said Housing Authority is hereby declared to be a city housing authority as provided for by Tennessee Code Annotated, Sections 13-20-401 to 13-20-418, inclusive, and also as a county housing authority as provided for by Tennessee Code Annotated, Sections 13-20-501 to 13-20-511, inclusive. The Metropolitan Mayor shall be deemed a Mayor for the purposes of said City Housing Authorities Act as therein referred to.

**Section 15.06. Titles and subtitles not part of Charter.**

It is hereby expressly declared and recognized that the titles and subtitles appearing before the Articles, Chapters and Sections of this Charter are not part hereof, and are not intended to determine or to restrict the meaning of its provisions. No substantive provision of this Charter shall be construed to be unintended or ineffective because the same has not been suggested or indicated by a title or subtitle. Titles and subtitles have been placed in this Charter merely for the convenience of those who examine or index its provisions.

**Section 15.07. Federal, state and other aid.**

The Metropolitan Government shall be deemed a county and shall also be deemed an incorporated city or municipality for the purpose of determining its right to receive, and for the purpose of receiving, state aid or grant-in-aid from the State of Tennessee, or from the United States, or from any other agency. Said Metropolitan Government shall be entitled to receive as state aid or as grant-in-aid from the State of Tennessee, or from the United States, or from any other agency, public or private, all funds to which a county is, or may hereafter be, entitled and also all funds to which an incorporated city or municipality is, or may be hereafter entitled, and to receive the same without diminution or loss by reason of consolidation. When state aid or other grant-in-aid is distributed to any county on the basis of population or area, or both, then the entire population and the total area of the County in which such Metropolitan Government is established shall be considered in calculating and determining the basis for such distribution. When state aid or other grant-in-aid is distributed to any county on the basis of rural area, rural road mileage or rural population, or any combination thereof, then that area of the General Services District outside of the Urban Services District and Special Services Districts designated to be urban for this purpose shall be deemed to constitute rural area, its road mileage to constitute rural road mileage, and its population to constitute rural population. When state aid or grant-in-aid is distributed to any incorporated city or municipality on the basis of population or area, or both, then the population and

the area of the Urban Services District and Special Services Districts designated to be urban for this purpose shall be deemed the population, and the area of the Metropolitan Government, in calculating and determining the basis of such distribution.

**Section 15.08. Appropriation authorized from budget of General Services District, Urban Services District, and Special Services District to finance certain deficits.**

Where any appropriation is made from time to time to finance any deficit in the pension or retirement funds of the government funds of the former Fayetteville and Lincoln County, the same shall be made solely from the budget of the applicable services district.

**Section 15.09. Surety bonds.**

Before entering upon the duties of their respective offices or positions, the Director of Finance and Purchasing, the Metropolitan Trustee and such other officers and employees of the Metropolitan Government, as shall be required by Tennessee Code Annotated, Title 8, this Charter and Council resolution upon the recommendation of the Mayor, shall execute corporate surety bonds and file said bonds with the Metropolitan Clerk. The sum of the individual bonds shall be fixed by Metropolitan Council resolution, and may exceed the minimum amount set by the Tennessee Code. The bond premiums shall be paid from the general funds of the General Services District. All such bonds and sureties thereon shall be approved by the Metropolitan Attorney before being accepted by the Metropolitan Clerk.

**Section 15.10. Authority to deal with state and federal agencies as to specific governmental services.**

The Mayor and Council of the Metropolitan Government shall have the power and authority to participate in, cooperate in and take all necessary action with respect to any and all projects, programs and undertakings of any nature whatsoever authorized by any statute, rule or regulation of the United States, or the State of Tennessee, or any federal or state agency or instrumentality, including, but not limited to, urban renewal, highways, aviation, aviation terminals, airports, airport facilities, river development or river terminals, municipal area or regional development, schools, colleges or any other area of education, sewers and sewage disposal, public housing, housing for the aged, and transportation or mass transit or any phase thereof, to exercise with respect thereto all the powers conferred by section 7-36-102 of Tennessee Code Annotated and any other state or federal statute, to borrow money and issue promissory notes, general obligation bonds, or revenue bonds, or a combination thereof, for any such purposes, and to execute mortgages or deeds of trust in favor of any federal agency, secured by property of which the Metropolitan Government is the legal, or beneficial or equitable owner, or in favor of any private agency where the loan is guaranteed by a federal agency.

**Section 15.11. Civil Service.**

The Metropolitan Council shall, by ordinance, establish a civil service system for the employees of the Metropolitan Government, and provide for its maintenance and administration.

**Section 15.12. Elections.**

All elections held for any office in the Metropolitan Government shall be non-partisan.

**Section 15.13. Continuation of certain boards and authorities.**

All boards, commissions and authorities of the City of Fayetteville and/or Lincoln County, Tennessee, not specifically dealt with in this Charter and in existence on December 31, 2008, shall continue as previously established as agencies of the Metropolitan Government until abolished or modified by ordinance of the Metropolitan Council or by statute, as appropriate. The Board of County Commissioners of Lincoln County and the Board of Mayor and Aldermen of the City of Fayetteville are not boards or commissions within the meaning of this section and shall not be continued after December 31, 2008.

**Section 15.14. Powers of the Metropolitan Council.**

(a.) The Metropolitan Council may, by ordinance, abolish or modify the boards, commissions, or authorities created by the City of Fayetteville or Lincoln County and assign their duties to other agencies or departments of the Metropolitan Government or discontinue the function as the Metropolitan Council deems appropriate.

(b.) The Metropolitan Council, may, by ordinance, create and establish boards, commissions and authorities not inconsistent with this Charter or general law, modify or abolish them, and define their authority, terms, procedure, the compensation of members, if any, and the qualifications of members.

**Section 15.15. General election laws applicable.**

The general election laws of the state shall be applicable to all elections of the Metropolitan Government, except as otherwise provided in this Charter.

**Section 15.16. Election Commission continued.**

The Board of Election Commissioners of Lincoln County as constituted according to the general law on December 31, 2008, shall continue as an agency of the Metropolitan Government and shall continue to be governed by the general law.

**Section 15.17. Filling of vacancies.**

Vacancies in the office of the Mayor or Council Member shall be filled by the Metropolitan Council until the next regular election.

**Section 15.18. Ouster of Metropolitan Government officers.**

The Mayor, members of the Council or School Board and any member of a Metropolitan Government board, commission or authority, elected or appointed, shall be subject to ouster under

the terms and provisions of Tennessee Code Annotated, Title 8, and within the meaning of each law, “Metropolitan Government Officers” are hereby declared to be county and municipal officers.

**Section 15.19. Members of the Council disqualified for membership on certain boards and commissions.**

Except as otherwise expressly provided in this Charter, no member of the Council shall be eligible, during their term of office for which he/she was elected, to serve on any Metropolitan board or commission created by this Charter.

**Section 15.20. Building Inspector.**

The person serving in the capacity of Building Inspector for the City of Fayetteville shall continue to serve in that capacity at the pleasure of the Metropolitan Administrator.

**Section 15.21. Qualifications.**

The Metropolitan Council may establish qualifications for any job or position in the Metropolitan Government.

## **ARTICLE 16. AMENDING CHARTER**

### **Section 16.01. Amending Charter by resolution of Council or petition and popular vote.**

This Charter may be amended subsequent to its adoption in the following manner:

An amendment or amendments may be proposed: (a) by the adoption of a resolution by the Metropolitan Council favoring the same, and submitting it or them to the people for approval. The affirmative vote for adoption of such resolution in the Council shall be not less than two-thirds (2/3) of the Membership to which the Metropolitan Council as constituted in Section 3.01, or (b) upon petition filed with the Metropolitan Clerk, signed by twenty percent (20%) of the number of the registered voters of the Metropolitan Area voting in the preceding general election, the verification of the signatures to be made by the Election Commission and certified to the Metropolitan Clerk.

Upon the adoption of a resolution for amendment of the Charter by the Metropolitan Council or the certification of an adequate petition for amendment of the Charter to the Metropolitan Clerk from the Election Commission, the Election Commission shall cause the proposed amendment or amendments to be placed on the ballot at the next regular general election for approval or rejection by the qualified voters of the Metropolitan Government. The ballot shall be prepared so as to set forth a brief description of the amendment, worded so as to convey the meaning of said amendment, said description to be set forth in the original amendatory resolution, that the language of each amendment in full be posted conspicuously in the voting place and be published in a local newspaper, numbered as the same is numbered in the resolution of the Council or in the petition, and to provide the voters a choice to vote "For Ratification" and "Against Ratification" of each proposed amendment. Each proposed amendment shall be ratified when a majority of the votes cast at the referendum election shall be in favor of ratification. The Council shall not adopt a resolution proposing amendments to this Charter more often than each two (2) year period, nor shall any such amendment or amendments be submitted by petition more often than once in each two (2) years.

### **Section 16.02. Otherwise amending this Charter.**

This Charter may also be amended in such other manner as may hereafter be provided by State law for amending the Charter of Metropolitan Governments.

### **Section 16.03. Charter Revision Commission authorized.**

The Metropolitan Council is authorized, by ordinance to establish a Charter Revision Commission to hold hearings and to make recommendations to the Metropolitan Council with respect to amendments to this Charter.

**Section 16.04. Certified copy of Charter.**

After the adoption of the Metropolitan Charter, a certified copy of the Charter and proclamation deposited with the Lincoln County Clerk shall be duplicated and a true copy certified by the Metropolitan Clerk and delivered to the Metropolitan Mayor of Lincoln County and the Mayor of the City of Fayetteville, and to the Metropolitan Mayor upon his or her election. After the adoption of any amendment to the Metropolitan Charter, the Metropolitan Clerk shall deliver a certified copy of the Amendment(s) and the newly revised complete text of the Metropolitan Charter (to be written by the Metropolitan Attorney and deposited with the Metropolitan Clerk) to the Metropolitan Mayor.

## **ARTICLE 17. TRANSITION AND EFFECTIVE DATE.**

### **Section 17.01. Certain ordinances and resolutions continued.**

All City ordinances, resolutions and by-laws in force in the former City of Fayetteville on December 31, 2008, shall continue in force and effect, when not inconsistent with the provisions of this Charter, and shall have the legal effect of ordinances of the Metropolitan Government, operative within the appropriate Urban Services District until repealed, modified or amended by subsequent action of the Metropolitan Government. On January 1, 2009, all County ordinances, resolutions and by-laws in force in Lincoln County shall continue in force and effect, when not inconsistent with the provisions of this Charter, and shall have the legal effect of ordinances of the Metropolitan Government, operative within the appropriate General Services District until repealed, modified or amended by subsequent action of the Metropolitan Government.

### **Section 17.02. Zoning and planning regulations continued.**

The creation and establishment of the Metropolitan Government shall not alter or change the zoning and planning regulations effective in Lincoln County or the City of Fayetteville, but the same shall continue in force and effect until amended by the Council.

The Boards of Zoning Appeals and Planning Commissions of the City of Fayetteville and Lincoln County shall continue as constituted and organized at the time of December 31, 2008, with their respective powers and duties as provided in the zoning regulations of the City of Fayetteville and Lincoln County. The functioning of said Boards of Zoning Appeals and Planning Commissions shall be terminated only at such time as the zoning regulations for the Metropolitan Government Area are enacted by the Council, and at such time as the Metropolitan Planning Commission and the Metropolitan Board of Zoning Appeals are established.

### **Section 17.03. Property rights, contracts, obligations, and causes of action and legal proceedings continued.**

All rights and title to property, all rights and obligations under contracts or trusts, and all causes of action of any kind in any court or tribunal vested in the City of Fayetteville, or Lincoln County, or in any officer or employee thereof in their official capacity, in existence on December 31, 2008, as well as all liabilities in contract or tort and causes of action involving the same in so far as they affect the City of Fayetteville or Lincoln County, or any officer or employee thereof in their official capacity, which shall be pending or outstanding on December 31, 2008, shall continue without abatement or modification by reason of any provision of this Charter.

### **Section 17.04. Proceedings before County and City agencies continued.**

All petitions, hearings and other proceedings pending before any agency of the City of Fayetteville or of Lincoln County shall continue and remain in full force and effect, notwithstanding that such agency may have been abolished or consolidated by this Charter and the petition, hearing or proceeding may be completed by the agency of the Metropolitan Government, which succeeds to the rights, powers, duties and obligations of such abolished or consolidated agency. The word “agency” as used herein and in Sections 17.05, 17.06 and 17.07, is hereby defined to mean and to include department, officer, office, board, commission or authority.

**Section 17.05. Orders, rules and regulations continued.**

All orders, rules and regulations made by any agency of the City of Fayetteville or of Lincoln County, which is abolished or consolidated by this Charter, shall remain in full force and effect until revoked or modified by the agency which succeeds to the rights, powers, duties and obligations of such abolished or consolidated agency.

**Section 17.06. Employees’ status continued.**

Where an existing agency of the City of Fayetteville or of Lincoln County is abolished or consolidated by this Charter, all employees thereof shall continue, as appointees of the agency to which the rights, powers, duties and obligations of such abolished or consolidated agency are transferred, to perform their usual duties, upon the same terms and conditions as theretofore until removed, appointed to positions in accordance with this Charter, or transferred to other agencies of the Metropolitan Government. Where the rights, powers, duties and obligations of any such agency are divided between two (2) or more agencies of the Metropolitan Government, each of them shall receive such of the employees as have been regularly occupied in connection with the functions thereof, which are by this Charter transferred to such agency. Every employee to whom this Section applies shall be placed in one (1) of the agencies of the Metropolitan Government and shall not be terminated as a result of this Charter before the end of transition.

The Metropolitan Mayor shall resolve all questions and problems arising under this Section.

**Section 17.07. Transfer of records and equipment.**

When an agency of the City of Fayetteville or of Lincoln County is abolished or consolidated by this Charter, all books, documents, maps, charts, plans, records, other equipment and personal property in the possession of the same shall be delivered to the agency to which its rights, powers, duties and obligations are transferred. In case of controversy between two (2) or more agencies as to right, such books, papers, other documents, equipment and personal property shall be transferred to such agency as the Metropolitan Mayor may direct.

**Section 17.08. Tax relief.**

It shall be the responsibility of the Metropolitan Council, for tax purposes, to earnestly seek out and give tax relief to the areas of the Metropolitan Government where services are not rendered as appropriate for the services district in which the property lies. This endeavor shall include creating Special Services Districts for all previously annexed areas which have not received substantial

urban services within a reasonable period, which shall not be greater than one (1) year after ad valorem taxes in the annexed area became due, and which shall specifically include sanitary sewers within a period which shall not be greater than thirty-six (36) months after ad valorem taxes in the annexed area became due.

The right of citizens to petition the Board of Equalization for appraisal adjustments shall continue.

**Section 17.09. Transitional provisions pertaining to tax assessments and Assessor.**

On January 1, 2009, the County Assessor of Property shall become the Metropolitan Assessor of Property and shall assume the powers, authority and duties of such Office as provided in this Charter and under State law.

The assessments made by said Assessor, as of the date this Charter is adopted, shall be and constitute the assessments on the basis of which ad valorem taxes for FY 2008-2009 shall be collected within the Urban Services District, the General Services District and the Special Services Districts, and to which taxes levied by the City of Fayetteville, Lincoln County or the Metropolitan Council and the Urban Councils for FY 2008-2009 shall apply, considering any changes by the Equalization Board and the addition of new properties.

**Section 17.10. Transitional provisions pertaining to employee retirement benefits.**

During the transitional phase, this Charter shall not impair the pension and retirement benefits of any person currently employed or previously employed by the City of Fayetteville and Lincoln County, on December 31, 2008.

**Section 17.11. Transition Task Force.**

Upon the adoption of this Charter, there is created for the purpose of planning and preparing for combining the governmental powers a Transition Task Force. The Transition Task Force shall be composed of members as follows:

- a. The Chairman of the Transition Task Force will be appointed by consensus of the Mayor of Fayetteville and the County Mayor, from among the five (5) mentioned in (b.) below:
- b. The Mayor of the City of Fayetteville shall appoint two (2) Aldermen as members, the County Mayor shall appoint (3) three Commissioners as members;
- c. The Chairman of the Fayetteville-Lincoln County Metropolitan Government Charter Commission shall be requested to serve in an advisory capacity.

All the appointees shall be named within ten (10) days after the day of the referendum adopting the Charter. The appointees shall serve without compensation for their services as such members.

Any vacancy on the Transition Task Force shall be filled by the appointing authority which originally appointed the member to such vacant position. The Transition Task Force shall meet

upon the call by the Chairman of the Transition Task Force for the purpose of planning and scheduling their transition activity of the Metropolitan Government in accordance with the applicable provisions of this Charter.

The Transition Task Force shall be authorized to make such recommendations, as it deems appropriate for the assumption of governmental powers by the Metropolitan Government. The Transition Task Force is specifically charged with the responsibility of developing proposed ordinances, which should be considered for adoption by the Metropolitan Council at its first regular meeting held following its election or at a regular meeting of the Metropolitan Council held as soon thereafter as practicable. Furthermore, the Transition Task Force will include the development of ordinances required to assure continuation of essential services without interruption. In addition, the Transition Task Force is specifically charged with the responsibility of beginning the Metropolitan Government budget process and combining the budgets of the City of Fayetteville and Lincoln County, into one unified budget. The Transition Task Force will be involved in personnel selection only to the extent specifically requested by the Metropolitan Mayor subsequent to the election. Upon taking office, the Metropolitan Mayor and Council become fully responsible for transition and the Transition Task Force will support them as requested.

All officers, officials and employees of Lincoln County and the City of Fayetteville shall cooperate with and assist the Transition Task Force. The Transition Task Force shall be entitled to examine all records, files, and other data in the possession of Lincoln County and the City of Fayetteville, and all officers, officials and employees and departments thereof, Lincoln County and the City of Fayetteville, shall to the extent possible, provide working areas and facilities for the Transition Task Force.

In an effort to help insure a smooth transition process the Transition Task Force will serve until January 15, 2009, except that the Metropolitan Mayor may dissolve it at any time after taking office.

Furthermore, the Chairman of the Transition Task Force shall be authorized to receive and expend up to twenty thousand dollars (\$20,000.00). The County will act as the fiscal agent for these two (2) funds for operations prior to the effective date of the Metropolitan Government. These funds shall be appropriated by the two (2) existing governments with seven thousand, five hundred dollars (\$7,500.00) from the City of Fayetteville, twelve thousand, five hundred dollars (\$12,500.00) from the Lincoln County Government.

**Section 17.12. Compensation of Government officials preserved.**

The Board of Mayor and Aldermen of the City of Fayetteville and the Lincoln County Mayor and Commissioners, whose terms of Office are abridged by this Charter, shall be entitled to receive two (2) months severance pay from the Metropolitan Government.

**Section 17.13. Non-partisan election of executive members of the Council and School Board.**

There shall be a non-partisan Metropolitan Government election the first Tuesday of November 2008, for the purpose of electing the first Mayor, twelve (12) Members of the first Metropolitan

Council and the eight members of the School Board. The Metropolitan Government officers, elected at said election, shall take Office on January 1, 2009.

**Section 17.14. Effective date of this Charter and the effective date of the Metropolitan Government defined.**

This Charter shall become effective immediately upon its adoption date which is the referendum date adopting the Charter for purposes of Section 17.09, Section 17.13 and Section 17.15, and other applicable Sections of this Charter. This Charter shall become effective for all purposes except as noted in the following paragraph as a result of certification of the referendum election results by the Lincoln County Election Commission and upon issuance of the proclamation by the Secretary of State to the County Clerk, which date is hereby defined and designated as “the effective date of this Charter” within the meaning of such quoted phrase as used in this Charter.

The existing Governments shall continue to govern under their Charters and legislative acts until midnight, December 31, 2008. At that time, the Charter of the City of Fayetteville and the Government of Lincoln County created by legislative act shall be superseded by the Metropolitan Government, which shall assume governmental responsibility.

Immediately upon taking office, the Metropolitan Government is authorized to plan and schedule transition activity and to enact ordinances and resolutions and employ personnel, all of which will become effective on or after January 1, 2009.

Transition will be fully complete by January 1, 2009 except as otherwise prescribed in this Charter.

**Section 17.15. Transition for fiscal and related matters.**

a. The supplemental appropriations made by the Metropolitan Council to any department, office, board, commission, authority or agency of the Metropolitan Government for the fiscal year ending June 30, 2009, shall be made within the budget structure of the former City of Fayetteville and the former County of Lincoln, provided nothing in this Section shall prevent the Metropolitan Government from borrowing money necessary to finance obligations of said Government for said period.

b. The budget and tax levy for fiscal year ending June 30, 2009, of the former City of Fayetteville shall serve as the budget and tax levy for the respective Urban Services District for the fiscal year ending June 30, 2009. The budget and tax levy of the former County of Lincoln shall serve as the budget and tax levy for the General Services District for the fiscal year ending June 30, 2009. Where functions have been transferred from the Urban Services District to the General Services District, or vice versa, the funds appropriated for such purpose shall follow the function.

c. The debt service with respect to bonds outstanding during the fiscal year ending June 30, 2009, by the City of Fayetteville and Lincoln County, shall be in compliance with Section 6.03 and Section 7.14.

## **ARTICLE 18. INTENT OF THIS CHARTER; SEPARABILITY AND SEVERABILITY OF PROVISIONS**

### **Section 18.01. Intent of this Charter.**

The people residing within the area of the Metropolitan Government declare and determine that by the adoption of this Charter it is their intent to exercise to the full extent possible the constitutional power granted by Amendment No. 8 to Article XI, Section 9 of the Constitution of Tennessee, approved at an election and certified according to general law, and in so doing to consolidate all or substantially all of the governmental and corporate functions of Lincoln County and of the City of Fayetteville, so that, in the interest of modern, efficient and economical government, the same may be operated as one (1) governmental entity.

### **Section 18.02. Separability of provisions.**

The people further declare that to achieve this remedial objective and to aid in the solution of the public problems of a metropolitan area, it is their purpose and intent in its adoption that this Charter shall continue in full force and effect, even if any of its separable provisions or parts not essential to this remedial objective shall be held unconstitutional or void.

### **Section 18.03. Severability of provisions.**

Each of the provisions of this amendment is hereby declared to be severable, and if any section or sections, clauses or parts are invalid or unconstitutional, the remaining provisions shall continue in full force and effect, it being the express legislative intent as declared herein that the amendment would have been adopted even if such invalid or unconstitutional matters had not been included therein.