

# **The Charter of Lincoln County Tennessee**

REFERENDUM OF  
AUGUST 2014

## **Preamble**

We, the people of Lincoln County, Tennessee, in order to perfect the structure of our county government, to insure that it is just, orderly, efficient, and fully responsible to the people of Lincoln County, and to secure the benefits of home rule and self-government for Lincoln County to the fullest extent possible under the Constitution of the State of Tennessee, do adopt this charter as the fundamental law for the government of Lincoln County.

## **" HOME RULE CHARTER "**

The Constitutional Home Rule Charter presented herein sets forth the basic issue of home rule for Lincoln County, for it is in the true sense a constitution prepared by the citizens of Lincoln County for the operation of Lincoln County's government. The Charter will place in the hands of the people of Lincoln County the power to effectively operate its government without calling upon the Tennessee State Legislature in Nashville for changes.

## **Separation of Powers**

The Constitutional Home Rule Charter provides for a separation of the county's legislative, executive, and judicial functions. The County Mayor, accountable to all of the voters, shall have the power to veto ordinances and resolutions as well as both the responsibility and the means at hand with which to operate an effective and efficient county government. The Legislative body is given legislative powers to adopt county ordinances and is so constructed as to be truly representative of all the people of Lincoln County.

## **Lincoln County Charter Highlights**

The Lincoln County Charter exists to make the Lincoln County government more accountable and transparent as well as to give the citizens of Lincoln County a stronger voice in their county government. The following highlights some of the issues set forth in this charter:

1. The people of Lincoln County have the ability to amend any part(s) of this Charter, pursuant to the charter amendment process.
2. The citizens of Lincoln County may have term limits for county commissioners, the County Mayor, appointed officials, and others.
3. The citizens of Lincoln County may choose the number of county legislative representatives to the County Commission within the bounds of Tennessee state law.
4. The county adopts recall elections, petitions, and referendums pursuant to TCA 2-5-151. Any action brought to the voters of Lincoln County by petition and referendum will be binding on the Lincoln County government.
5. Any new taxes and any tax increases will be approved by the voters of Lincoln County.

6. There will be staggered election terms for county commissioners.
7. The citizens of Lincoln County may speak at any county government meeting, including meeting of boards, commissions, and authorities, where county business is conducted.
8. The people of Lincoln County will have an ethics commission to investigate malpractice and guard against conflicts of interests, ethics violations, and other violations of the public trust.
9. All county meetings in Lincoln County will be open to the public and all county records will be made available both in written form and digital form via the Official Lincoln County Web Site.
10. Lincoln County will have multiple year operating and capital budgets for each Lincoln County department, office, or organization receiving tax payer funds.
11. Lincoln County will have a debt management policy that does not hinder the financial growth of the citizens, but follows the prosperity of the citizens.

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## **Article I. Powers and Function**

### **Section 1.01. Powers and Functions**

The Lincoln County government is vested in a mayor-county commission form of government, which shall have the power to execute the duties and functions noted in this charter and—to the extent that it does not in violate this charter—Tennessee state law. The Lincoln County government’s powers and functions shall not violate the United States Constitution, the Constitution of the State of Tennessee, or the Charter of Lincoln County Tennessee. It is the intent of this charter that the power of county government be limited to the lawful exercise of governance as defined in this charter and—to the extent that it does not violate this charter—Tennessee state law. Likewise, the powers granted and defined by this charter are intended to protect, rather than constrain, the liberties of Lincoln County citizens.

### **Section 1.02. Private and Local Affairs**

With regard to private and local affairs, all lawful powers are vested in the County Mayor, County Commission, and county officials, except those powers reserved to the Judiciary. This investment of legislative, executive, and other powers and duties shall be full and complete. The intent of this charter is to invest in the government of Lincoln County every authority, power, and responsibility for the conduct of the affairs of the government of Lincoln County, including the powers to adopt and enforce resolutions and ordinances.

### **Section 1.03. Public Corporation Powers**

The government described herein shall be a public corporation—vested with any and all powers which counties are, or may hereafter be, authorized or required to exercise under the Constitution and applicable general laws of the State of Tennessee, not to be in conflict with this charter.

### **Section 1.04. Public Corporation Rights**

The government of Lincoln County shall be a public corporation, with the right of perpetual succession—capable of suing and being sued, capable of purchasing, receiving, and holding real estate and personal property, and capable of selling, leasing, or disposing of the same to the fullest extent permitted—having all express, implied, and inferred rights necessary to the exercise of its public corporation rights.

### **Section 1.05. Rights Reserved to the People**

- A.** No provision of this charter shall infringe upon the rights, privileges, and powers reserved or guaranteed to individual persons or to the people by the United States Constitution or the Constitution of the State of Tennessee.



- B.** No action by any officer or employee of Lincoln County Tennessee shall infringe upon the rights, privileges, and powers reserved or guaranteed to individual persons or to the people by the Charter of Lincoln County Tennessee, The Constitution of the State of Tennessee, or the United States Constitution.
- C.** All powers are reserved by the citizens of Lincoln County, except those enumerated powers granted to the Lincoln County Government by this charter.

### **Section 1.06. Adherence to the Charter Requirements**

All elected and appointed Lincoln County Officials, employees, officers, negligently failing to adhere to, comply with, administer and/or enforce all requirements set forth in this charter shall be imposed a fine not less than one-thousand dollars (\$1000.00) for each and every person and occurrence. All such fines shall be paid into the general fund of Lincoln County Tennessee.

## **ARTICLE II. LEGISLATIVE BRANCH**

### **Section 2.01. Legislative Powers.**

The legislative power of the county is vested in the board of county commissioners of Lincoln County, hereinafter also referred to as the “legislative branch,” “county commission,” or “Commission.”

The Commission is to exercise all authority of a legislative nature which is vested in the county by the Constitution, all applicable laws of the State of Tennessee, and this charter. All other self-governance functions shall be performed by Executive or Judicial Branches or the county citizens.

### **Section 2.02. Other Powers**

- A.** The Commission shall by resolution have the authority to provide for an independent audit of the accounts and other evidences of financial transactions of the county and of every county office as well as such other special audits as the Commission deems necessary. Such audits shall be made by the Tennessee Comptroller General, a certified public accountant, or by a firm of certified public accountants designated by the Commission. No individual auditor or member of an auditing firm so designated shall have any personal financial interest, direct or indirect, in the fiscal affairs of the county or of any of its offices. The designated certified public accountant(s) shall be qualified by training and experience and shall have sufficient staff to perform the audits. No individual certified public accountant or firm of certified public accountants shall be employed to perform the audits for more than three (3) successive years.
- B.** By ordinance, the board of county commissioners must establish purchasing procedures, rules, and regulations governing all county purchases, sales, contracts for services, and disposal of surplus property. These rules and regulations will apply to all county officials, pursuant to this charter, and will only apply to clerks of courts, if not contrary to State law.

- C. No sale, purchase, or transfer of real property, or any interests therein, owned by the county shall be valid unless approved by resolution of the Commission.
- D. By resolution, the Commission may employ, contract with, or otherwise hire, any person(s) or business entity(ies) which it deems necessary to the exercise of the powers vested in it, unless otherwise prohibited by this charter.
- E. Upon adoption of an approving resolution in each instance by the affirmative vote of two-thirds (2/3) of the entire Commission, the Commission and its authorized committees shall have full power and authority to hold public hearings, with power to subpoena witnesses and to administer oaths where necessary or desirable, for the purpose of either (1.) gathering information necessary or desirable for the purpose of considering proposed Commission legislation, or (2.) investigating any allegation of violations of this charter, ordinances, or emergency ordinances of the Commission brought by either the County Mayor of Lincoln County or any member of the Commission against any elected official or employee of the county. No such hearing shall be held with or without such subpoena power having been exercised except when a quorum of the Commission or any authorized committee, as appropriate, is present.

### **Section 2.03. Membership and Election.**

- A. The board of county commissioners of Lincoln County shall be the legislative branch of Lincoln County government, whose members shall be elected by the people for such terms and from such districts as may from time to time be provided by law and this charter.
- B. The Commission under this Charter shall consist of nine (9) members, eight (8) elected from the eight (8) districts of Lincoln County, and one (1) member elected at-large through county-wide vote. The eight (8) district seats shall be referred to as Commission Seats one (1) through eight (8) respectively with the numbers corresponding to the district numbers from which the district commissioners are elected. The one (1) at-large seat shall be referred to as Commission Seat nine (9). The transition from twenty-four (24) to nine (9) commissioners must be done in accordance with this charter and the laws of the state of Tennessee.
- C. No change shall be made in either the number of commissioners or their districts after January 1 of the year in which elections for the Commission are to be held.
- D. No person shall be eligible to serve as a member of the board of county commissioners unless they have met all requirements set forth by state law and have maintained a permanent residence as a citizen of the county for at least one (1) year prior to the election. Moreover, a member of the Commission shall remain a full-time resident of the commission district which such member represents during his/her term in office.
- E. The board of county commissioners shall adopt its own rules of order and procedure, not to be in conflict with this charter. These rules and procedures must be posted on the Lincoln

County Website. Any change or suspension of any rules during a public meeting must be explained to the public before the rule change is voted on. The member must state the specific rule that is to be changed or suspended and why he/she wishes to suspend or change said rule(s). The rule(s) to be changed or suspended must be cited verbatim.

- F.** No member of the board of county commissioners shall be eligible to hold any other local, county, state, or federal compensated elective office so long as they hold the office of Lincoln County Commissioner. If a county commissioner assumes another compensated elected office, the county commissioner shall vacate the county [commission] office within ninety (90) days and the vacancy shall be filled in accordance with Section 2.08 herein. Provided, however, anyone who currently holds another compensated elected office may run for the County Commission so long as, if elected, that person resigns the existing elected office within ninety (90) days of his election as a county commissioner.
- G.** Each member of the County Commission must be a member of the Budget Committee for the entirety of his/her term.
- H.** No member of the board of county commissioners shall be eligible to be elected to, or hold the office of, county commissioner for more than two consecutive full terms. However, after one term out of office, commissioners may be eligible to serve additional terms, but may only serve two (2) terms in any twelve (12) year period. Provided, however, if an individual is appointed to fill an unfilled term either for mayor or county commissioner, this term shall not be counted as part of the two consecutive elected terms.
- I.** Terms of office for the board of county commissioners must be staggered, with the elections for all even numbered commission seats and all odd number commission seats alternating regular election cycles.
- J.** All districts must comply with state and federal constitutional requirements.
- K.** On or before December 31, 2022, and every ten (10) years thereafter, it shall be the duty of the Commission, based upon the most recent federal decennial census, to reapportion and/or redistrict the Commission seats so as to comply with Tennessee state law.
- L.** The Commission shall adopt the most current edition of Robert's Rules of Order Revised to conduct its procedures and meetings, not to be in violation of this charter.
- M.** In all proceedings of the Commission to elect officers of the Commission, the following procedure shall be followed:
  - A.** Nominations may be made by members of the Commission only.
  - B.** Each member of the Commission may vote in favor of one (1) nominee, by name, only.
  - C.** Election of a nominee shall require a majority vote of the membership of the Commission. Prior to such election, the Commission shall, by resolution or ordinance, establish the procedure for arriving at a majority vote.

- N. When any public office is to be filled by the Commission, if any member of the Commission accepts the nomination as a candidate for such public office, the following procedure shall be followed in addition to Section 2.09.:
1. No member of the Commission who is absent from any proceeding to fill a public office shall be eligible to have their name placed in nomination unless either the Chairman of the Commission or the County Clerk shall have present at such meeting of the Commission a written acceptance of such nomination signed by such member of the Commission.
  2. If a Commission member's name is placed in nomination, the Chairman of the Commission shall, prior to the first vote, require that member to either accept or decline the nomination. A refusal to either accept or decline shall disqualify that member for nomination.
  3. No vote shall be recorded in favor of any member of the Commission who has either declined nomination or has been otherwise disqualified.
  4. The acceptance of nomination by a member of the Commission shall automatically disqualify such member to vote to fill that office.
  5. If the Commission member is elected, their seat on the Commission shall immediately be vacant.

#### **Section 2.04. Commissioner's Salary**

- A. The salary of county commission members shall not exceed the minimum salary required by Tennessee state law.
- B. Any commission member may refuse his/her salary and return the money to the county treasury.

#### **Section 2.05. - Ordinances, Emergency Ordinances and Resolutions.**

##### **A. Generally.**

1. The Commission shall exercise its legislative authority by resolution, ordinance, or emergency ordinance as hereinafter set forth.
2. No ordinance, emergency ordinance, or resolution shall become effective which embraces more than one (1) subject, the subject to be expressed in its caption.
3. All ordinances, emergency ordinances, and resolutions which repeal, revise, or amend former ordinances, emergency ordinances, or resolutions shall recite in their caption the number and date of adoption of the ordinance, emergency ordinance, or resolution repealed, revised, or amended.
4. In order to become effective, any ordinance or resolution shall receive a majority vote of the membership of the Commission except the following:
  - a. Any ordinance proposing an amendment to this charter shall be adopted by a favorable vote of two-thirds (2/3) of the membership of the Commission.



7. The County Clerk shall number and compile in an ordinance book all ordinances and emergency ordinances and shall number and compile in a resolution book all resolutions and shall preserve such books in the County Clerk's office. The County Clerk shall furnish a true copy for a reasonable fee to any person so requesting.
8. The County Clerk may delegate to his/her deputy(ies) any or all duties imposed upon the County Clerk by this charter; provided, however, nothing in this Paragraph (8) shall be construed to relieve the County Clerk of any and all responsibilities imposed upon him/her by this charter.

**B. Resolutions.**

All resolutions shall be adopted upon receiving a majority vote of the membership of the Commission upon one (1) reading and shall become effective in accordance with this charter.

**C. Ordinances.**

1. An ordinance shall be considered to be on the agenda of any meeting of the Commission only if:
  - a. the caption of such ordinance is quoted verbatim in the agenda for such meeting and a copy of such agenda has been made available to each and every member of the Commission not later than five (5) days prior to such Commission meeting; and
  - b. a copy of such ordinance has been made available to each member of the Commission at least forty-eight (48) hours prior to such meeting.
2. To become effective, each ordinance shall be adopted in accordance with all applicable laws of the State of Tennessee.
3. To become effective, each ordinance must be approved by the members of the Commission upon three (3) readings. These readings must occur at three (3) consecutive monthly meetings. The time between the first reading and third reading must exceed sixty-one (61) days.
4. All ordinances shall be adopted upon receiving a majority vote of the membership of the board of county commissioners unless a rule change occurs or the ordinances deal with the following subjects, which shall be adopted on receiving a two-thirds vote of the membership of the board of county commissioners:
  - a. Any proposal which amends this charter
  - b. Any proposal which changes the purchasing procedures of Lincoln County government or any agency or authority subject to the county purchasing ordinances
  - c. Any proposal setting the county property tax rate
  - d. Any proposal which imposes a fine or imprisonment as punishment for a violation thereof
  - e. Any proposal which increases the salary and/or expenses of the County Mayor, county school board members, or any elected county official



8. If the County Mayor is absent from the county at the time the Commission passes an emergency ordinance, the County Mayor may authorize a veto or signature of an emergency ordinance via telecommunication.

#### **Section 2.06. Signature and Veto by the Executive of Lincoln County**

- A. It shall be the duty of the County Clerk or such other officer as may be designated by law to deliver to the County Mayor a true and attested copy of all ordinances or resolutions within four days of the final passage.
- B. Within 30 days of final passage, the County Clerk or such other officer as may be designated by law shall cause to be delivered to the County Attorney a certified copy of every ordinance or resolution.
- C. The County Clerk or such other officer as may be designated by law shall maintain an up-to-date record of all ordinances and resolutions and furnish a true copy to interested persons for a reasonable fee.
- D. Every ordinance, emergency ordinances, and resolution of the board of county commissioners shall be submitted to the County Mayor. If the County Mayor signs it, the ordinance or resolution shall become effective as provided in Section 2.05 of the charter or at a later date if the ordinance or resolution so provides.
- E. If the County Mayor vetoes the ordinance or resolution, it shall be returned to the board of county commissioners for action on the veto. A resolution or ordinance requires a vote of two-thirds (2/3) of the board of county commissioners to override the County Mayor's veto, except in the case of ordinances requiring a two-thirds (2/3) vote upon original passage pursuant to Section 2.05.C.4. Any ordinance or resolution that required a vote of two-thirds (2/3) of the Commission upon original passage will require a vote of two-thirds (2/3) of the board of county commissioners plus one (1) to override the County Mayor's veto. Such passage must take place within thirty (30) days of receiving the County Mayor's message of veto.
- F. If the County Mayor fails either to sign or veto an ordinance or resolution and to report this action to the board of county commissioners within ten (10) days after the ordinance or resolution is submitted to him/her, the County Mayor shall have no further power to veto the ordinance or resolution and it shall become effective without the signature upon the expiration of the ten (10)-day period or at a later date if the ordinance or resolution so provides.

#### **Section 2.07. Election of Chairman and Vice Chairman**

- A. The Commission, annually, shall elect from its membership, a chairman, vice chairman, and such other officers as the Commission deems necessary. The election procedures shall follow those established pursuant to Section 2.03.E of this article.



- B. The chairman of the board of county commissioners will have administrative support from the office of the County Mayor.

**Section 2.08. Removal of Members of the Commission.**

A member of the Commission may be removed from office according to the laws of the State of Tennessee and/or this charter.

**Section 2.09. Vacancy.**

- A. In the event of a vacancy of any county office, the members of the Commission shall fill said vacancy with a person meeting the qualifications according to Tennessee State law and/or this charter.
- B. When a Commission seat is vacated for any reason, the County Clerk shall provide written notice to the all remaining members of the Commission of the need to fill the vacancy. In addition the chairman of the Commission shall give public notice in a newspaper of general circulation in the county at least seven (7) days prior to the commission meeting at which nominations for said seat shall be taken.
- C. Before the Commission votes to fill a vacated seat, the chair shall allow voters registered in Lincoln County to submit names to the Commission for consideration. The names may be submitted in writing before the meeting or verbally at the meeting. A seated member of the Commission shall sponsor a nomination in order for the nominated person to be considered for appointment by the Commission.
- D. Any member of the Commission may also nominate candidates to be considered to fill the any vacated seat.
- E. After nominations cease, the Commission must discuss the nominations and shall interview nominees or allow the nominees to speak to the Commission.
- F. All vacancies must be filled in accordance with Section 12.04.
- G. Having met all requirements of Tennessee state law and this charter, the Commission shall vote on the qualified nominees. If no nominee receives a majority of votes in the initial vote, the nominee receiving the least amount of votes shall be removed from consideration, and there will be a re-vote to consider the remaining candidates. This process will continue until one candidate receives a majority of the votes.
- H. Any challenge to the legality of an appointment, shall be submitted to the chancery court of the county within ten (10) days of the date of appointment.
- I. A vote to fill a vacancy cannot occur at the same meeting where nominations are first taken to fill said vacancy. The final vote to fill a vacancy may not occur before thirty (30) days have passed since nominations have been taken to fill said vacancy.

### **Section 2.10. Approval of Nominations.**

All nominations by the County Mayor for any board, commission, agency, authority, chief administrative officer, county attorney, or public defender, shall be subject to the approval and consent by resolution of the board of county commissioners, in accordance with Section 12.04.B.

### **Section 2.11. Meetings and Quorum**

- A.** The Commission shall meet at least once a quarter and no more than once a month on or after 5pm at place to be determined by the Commission Chairman who shall determine the time, place, and agenda for all regular meetings.
- B.** The Chairman shall have posted on the Lincoln County Website the agenda, commissioner meeting packets, or other handouts. In addition, copies may be attained by the public at the County Clerk's office at the going rate per page charge of all meeting handouts no later than three (3) days before the scheduled meeting.
- C.** Commission committees shall meet at a time and place to be determined by the chairperson of such committee. The Committee Chairman shall have the authority to determine the time, place and agenda for all scheduled meetings, but the meetings must take place after 5pm.
- D.** The County Mayor shall have the authority to request special Commission or Committee meetings when deemed necessary. When a special meeting is called, the Commission or Committee Chairman shall determine the time, place, and agenda of such meeting.
- E.** All notifications of committee meetings and all minutes of committee meetings will be filed with the County Clerk's office. The Clerk will promptly transmit a copy to the County Mayor and to the Financial Director. The Clerk will notify all commissioners by mail of said notifications and minutes of meetings at least five (5) days prior to the meeting. It shall be the duty of the County Clerk's office to maintain all Commission and committee meeting minutes in such a manner that the records shall at all times, during normal business hours, be open for public inspection.
- F.** A quorum for the purpose of conducting business shall be a majority of the membership of the Commission or committee. All meetings shall be held in compliance with the provisions of Title 8, Chapter 44 of TN state law and this charter.
- G.** Special emergency meetings can take place as often as emergencies (as defined in Section 2.05.D.1.) arise. These meetings will be for the sole purpose of accessing emergency conditions and determining appropriate courses of action.
- H.** Residents of Lincoln County will be able to address the County Commission for no more than three (3) minutes per person at the beginning and ending of regular County Commission meetings and committee meetings to make suggestions, ask questions, or ask for a redress of

grievances. A good faith response must be given to the person(s) making complaints or asking questions.

- I. Before the commission can move on to any new item of business or takes any vote, the chair must ask the audience for any questions or comments regarding the matter at hand. The chair must recognize any Lincoln County resident(s) who would wish to make a comment or ask a question. These questions or comments must be germane to item being discussed by the commission and will be limited to no more than one (1) minute, unless more time is allotted at the discretion of any county commissioner. A good faith response must be given to the person(s) making complaints or asking questions.

### **Section 2.12. Committees**

The Commission shall establish and/or dissolve any Commission committees as well as set the level of participation for its members, not to be in conflict with state law or this charter.

## **ARTICLE III. EXECUTIVE BRANCH**

### **Section 3.01. Executive and Administrative Powers.**

The executive and administrative powers of the Lincoln County government shall be vested in and exercised by the County Mayor, also called the executive branch, and, under the County Mayor's control and direction, by such subordinate major divisions, departments, boards, offices, officers, and agencies as established from time to time.

### **Section 3.02. Executive Branch.**

The County Mayor shall be the head of the executive branch of Lincoln County government, responsible for the exercising of all executive and administrative functions of the county government and shall be the chief fiscal officer of the county. He/She shall devote his/her time to the performance of his/her duties as County Mayor.

### **Section 3.03. County Mayor Duties.**

The County Mayor shall:

- A. See that all resolutions and ordinances of the board of county commissioners and all laws of the state subject to enforcement by them or by officers who are subject, under this charter, to their direction and supervision are faithfully executed; provided, however, the County Mayor shall not assume any of the constitutional or statutory duties of the sheriff.
- B. Prepare and submit to the board of county commissioners with the assistance of appropriate department heads and other responsible officials the budgets and financial reports. The County Mayor shall present the consolidated budget of the county to the board of county commissioners as set forth by resolution in order for the board of county commissioners either to approve said budget as presented or to modify and amend the same as may be deemed requisite in order to determine the amount of taxes necessary to be levied. The adoption of the budget shall be by resolution.

- C.** Examine no less than quarterly the accounts, records, and operations of every department, office, and agency of the Lincoln County government; make regular reports no less than quarterly to the board of county commissioners on the affairs of the Lincoln County government; keep the board of county commissioners fully advised on the financial condition and future needs of the Lincoln County government; and make such recommendations on Lincoln County government affairs as he/she deems appropriate.
- D.** Have power, as granted by the board of county commissioners, to contract with the various municipalities and agencies in the county for the consolidation of duplicating and overlapping services and functions, upon concurrence by the board of county commissioners by ordinance. To this end, the mayor may contract with any city, town, or agency to have such overlapping or duplicated services performed by the county or by any such city, town, or agency, or by some office to be administered jointly by the contracting units. The mayor may also contract with one or more neighboring states or counties, or both, for jointly conducting an institution or other service which may be rendered more efficiently or economically, or both, through a centralized institution, enlarged personnel, improved facilities, etc. serving more than one contracting unit.
- E.** Provide for and maintain all accounting systems necessary for the Lincoln County government and for each department, office, and agency thereof. The mayor shall maintain such systems in accordance with generally accepted accounting principles applicable to governmental entities, keeping accounting records for and exercising financial and budgeting control over such department, office, or agency. All warrants in payment of obligations of the county government shall be signed by an officer as may be designated by law and countersigned by the County Mayor, either in person or by facsimile.
- F.** Have veto power over the annual budgets of the county, which may be exercised by vetoing specific items or parts of items without invalidating the whole. The veto shall be exercised and may be overridden by the same procedure as provided in Section 2.06. Provided, however, the mayor shall not have line item veto over the budgets of the elected county officials and clerks of courts.
- G.** Nominate members of all boards, authorities, and commissions, and their appointment shall be subject to approval by resolution of the board of county commissioners. All such appointees shall be residents of Lincoln County at the time of their appointment and at all times while serving on said board, authority, or commission. The mayor shall submit any such nomination within sixty (60) days of the vacancy to be filled. Any upcoming appointments must be actively solicited to the public for at least thirty (30) days to allow Lincoln County citizens to submit their names for consideration. At least three (3) candidates must be considered for any open position, unless fewer than three (3) candidates submit their names for consideration.
- H.** (1.) Have the authority to remove and discharge the members appointed in paragraph (G) above, subject to the approval by resolution of the board of county commissioners of Lincoln County.

(2) In addition, the chairman of the board of county commissioners of Lincoln County is hereby empowered to commence said removal procedures if the County Mayor shall fail or refuse to act within ten (10) days after written demand by the chairman. Any removal proceeding commenced by the chairman of the board of county commissioners of Lincoln County shall be subject to the veto procedures contained herein.

- I. Have the right to serve individually or to appoint from the administrative assistants, executive assistants, or any head of any division or department of county government, in writing, a designee, to serve in place and stead of the mayor on any board or commission of which the County Mayor is a member by law, and said designee shall have all powers including the power to vote as are conferred upon the County Mayor. Any designee appointed by the County Mayor under the provisions of this section shall be appointed to serve in that capacity for at least one (1) year, or the remainder of the term of office of the County Mayor, whichever is less. During such periods of appointments, either the specified designee or the County Mayor may exercise the voting powers granted by this section. However, at any meeting attended by the mayor, only the mayor shall exercise the voting power.
- J. Negotiate and execute loans, bonds, notes, and other evidences of indebtedness to the extent provided in the resolution authorizing the same.
- K. Maintain the records of county indebtedness and have charge of the payment of principal and interest thereon.
- L. Examine all contracts, orders, and other documents by which financial obligations are incurred by the county or any of its officials or offices, indicate the availability of funds to meet these obligations, and certify thereto.
- M. Shall have the authority to execute contracts on behalf of Lincoln County Government, except as otherwise provided in this charter, that has had said cost included in the current budget and comply with all State of Tennessee and Lincoln County procurement regulations, policies, and procedures, and, if applicable, all Federal procurement regulations. If the situation arises such that non-budgeted goods or services are required for Lincoln County, such requirements will be reviewed for approval by the Lincoln County Commission Budget Subcommittee and must be ratified by the board of county commissioners. Such approval will require that the current and future budgets will be adjusted such that Lincoln County Government will maintain a balanced budget (revenue = costs). Contracts and purchases on behalf of the Lincoln County Government shall be executed by the County Mayor or the mayor's designee.

#### **Section 3.04. Term, Qualifications, and Compensation.**

- A. The County Mayor shall be elected every four (4) years and shall continue on the election schedule set in place before the adoption of this charter.

- B.** The County Mayor must meet all requirements set forth by state law and this charter to be a candidate for office.
- C.** The County Mayor must be a resident of Lincoln County at least one (1) year prior to filing for this office at the time of his/her election and must remain a full-time resident during his/her term of office.
- D.** The County Mayor's salary shall be set by the County Commission. The salary of the County Mayor may be changed from time to time by ordinance of the County Commission; provided, however, that no change in salary shall take place during the term for which the County Mayor was elected or after January 1 of the year in which the Mayor is to be elected.
- E.** No person shall be eligible to be elected to, or hold the office of, County Mayor for more than two consecutive four (4) year terms. However, after one (1) term out of office, former County Mayors may be eligible to serve additional terms, but may only serve two (2) terms in any twelve (12) year period. Provided, however, if an individual is appointed to fill an unfilled term either for mayor or county commissioner, this term shall not be counted as part of the two (2) consecutive elected terms.

**Section 3.05. County Mayor--Vacancy.**

- A.** If a vacancy occurs in the office of County Mayor by death, resignation, removal, disability, or otherwise, the chairman of the board of county commissioners shall serve as acting mayor. If the chairman of the board of county commissioners is unable or unwilling to serve as acting County Mayor for any reason, the vice-chairman of the board of county commissioners shall serve as acting mayor.
- B.** The chairman or vice-chairman shall serve as the acting County Mayor until an interim County Mayor is elected by the board of county commissioners. While serving as acting County Mayor, the chairman or vice-chairman shall not exercise the powers of his office as chairman, vice-chairman, or county commissioner. The board of county commissioners shall appoint an interim County Mayor within forty-five (45) days after the chairman or vice-chairman begins serving as acting County Mayor.
- C.** The interim County Mayor shall serve until a successor is elected and qualified at the next countywide election allowed by the state election laws.

**Section 3.06. Offices, Division, and Departments.**

- A.** The County Mayor, subject to approval by resolution of the board of county commissioners, may abolish or consolidate major divisions of county government.
- B.** The duties, powers, and functions of the departments within the divisions of the Lincoln County government shall be generally as set by ordinance, and their jurisdiction shall extend throughout the Lincoln County government.

### **Section 3.07. Budget procedures.**

- A. The head of each county department as well as all elected county officials and clerks of courts shall furnish to the County Mayor in a form specified by the mayor:
  - 1. Detailed estimates of the revenues and expenditures of their office for the ensuing fiscal year and the two (2) fiscal years immediately thereafter,
  - 2. Detailed estimates of the costs of any capital improvements pending or proposed to be undertaken within the ensuing fiscal year and within the four (4) fiscal years immediately thereafter, and
  - 3. Such other information, related to budgeting, as the County Mayor requests.
- B. The County Mayor will then submit the information obtained to the County Commission.

## **Article IV JUDICIAL BRANCH**

### **Section 4.01. Judiciary.**

- A. The judiciary of Lincoln County Government shall be vested in the existing courts of Lincoln County or in any other courts established by law. Judges of the various courts of Lincoln County shall expressly continue as elective officers with all powers and duties conferred or implied by law upon their respective offices.
- B. It is not the intent of this charter to dismantle or discontinue any lawful courts or judgeships established prior to the adoption of this charter.
- C. The County Commission may, by ordinance, create such additional divisions of the General Sessions Court, as well as courts having such jurisdiction as is, or may hereafter be, provided by law, which it deems necessary and may abolish such divisions so long as the Commission shall comply with Section 4.03 of this charter. Such additional divisions of the General Sessions Court may be given exclusive jurisdiction over Lincoln County ordinance violations, and such other jurisdiction as may be authorized by all applicable laws of the State of Tennessee and this charter.

### **Section 4.02. Vacancy.**

If a vacancy occurs in any judicial office of the General Sessions Court, or in any other judicial office, established by law or by this charter in Lincoln County, then that vacancy shall be filled by a vote of the County Commission as prescribed in this charter, and the person so selected shall serve until his/her successor is elected and sworn.

### **Section 4.03. Abolishing Divisions or Altering Compensation.**

Nothing herein shall grant to the County Commission the power to abolish a division of any General Sessions Court, or any other county judicial office, during the term of office of a judge of that court, nor shall the Commission alter the compensation of any judge of any court of Lincoln County during the term of office of such judge. The Commission shall not abolish any division or alter the compensation of any judge for a subsequent term of any court of Lincoln County during the year in which an election of the judge of such court shall be held.

**Section 4.04. Rules of Court and Evidence.**

Nothing herein contained shall confer upon the County Commission the power to make rules of court, rules of evidence, or otherwise affect the rules of civil or criminal procedure applicable to the courts of Lincoln County. The power to make rules of court or rules of evidence shall be expressly reserved to the respective courts of Lincoln County, and/or to the Supreme Court of the State of Tennessee, and the Tennessee General Assembly, as applicable by law.

**Article V OTHER OFFICERS**

**Section 5.01. - Property Assessor.**

- A. The duties of the Assessor of Property are vested in and exercised by the Lincoln County Property Assessor. The duties, qualifications, oath of office, bond requirements, and compensation of the Assessor of Property shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The duties of this office shall include, but not be limited to, the responsibility of determining and recording the value of all property within the county, whether real, personal or mixed, except for the property of public utilities valued by the State; provided, however, that nothing in this section shall diminish the duties of the Office of the Property Assessor as prescribed by the General Assembly, although additional duties may be given to this office by this charter or by Ordinance of the Lincoln County Commission.
  
- B. In accordance with state law any individual assuming this office must recite the following oath of office in addition to any other oaths required by this charter:

"I, \_\_\_\_\_, assessor of property (or Deputy assessor ) of the county of Lincoln, state of Tennessee, do solemnly swear (or affirm ) that I will appraise, classify, and assess all taxable property of the county of Lincoln, according to the Constitution of Tennessee and the laws of the state; that I will truly report all persons who fail or refuse to list their taxable property or who have to my knowledge returned a fraudulent list; and that I will faithfully, impartially, and honestly discharge my duties as assessor of property according to the law, to the best of my knowledge and ability, without fear, favor or affection, so help me God.

**Section 5.02. - Sheriff.**

- A. The duties of the Sheriff are vested in and exercised by the Lincoln County Sheriff, who shall be the Chief Law Enforcement Officer of Lincoln County. The duties, qualifications, oath of office, bond requirements, and compensation of the Lincoln County Sheriff shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The general duties of Sheriff shall include, but not be limited to, being the Chief Law Enforcement Officer of Lincoln County, maintaining the jail(s) of the county, providing courthouse and courtroom security, and providing civil and criminal warrants service as well as those duties traditionally performed by the Sheriff in accordance with common law; provided, however, that nothing in this section shall diminish the duties of the Office of the Sheriff as prescribed by the General Assembly, although additional duties may be given to this office by this charter.



- B.** In accordance with state law, any individual assuming this office must recite the following oath of office in addition to any other oaths required by this charter:

" I, \_\_\_\_\_, Sheriff ( or Deputy Sheriff ) have not promised or given, nor will give, any fee, gift, gratuity, or reward for the office or for aid in procuring such office, that I will not take any fee, gift, or bribe, or gratuity for returning any person as a juror or for making any false return of any process, and that I will faithfully execute the office of sheriff to the best of my knowledge and ability agreeably to law. "

**Section 5.03. - Register Of Deeds.**

The duties of the Register of Deeds are vested in and exercised by the Lincoln County Register of Deeds. The duties, qualifications, oath of office, bond requirements, and compensation of the Register of Deeds shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The duties of this office shall include, but not limited to, the responsibility for the filing or recordation of documents that affect the legal status of real or personal property; provided, however, that nothing in this section shall diminish the duties of the Office of the Register of Deeds as prescribed by the General Assembly, although additional duties may be given to this office by this charter or by Ordinance of the Lincoln County Commission.

**Section 5.04. - County Clerk.**

The duties of the County Clerk are vested in and exercised by the Lincoln County Clerk. The duties, qualifications, oath of office, bond requirements, and compensation of the County Clerk shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The general duties of this office shall include, but not be limited to, the responsibility for the collection of business taxes, motor vehicle registration and licensing, the collection of wheel taxes, the issuance of marriage and other licenses, and the keeping of records of the county's notaries public; provided, however, that nothing in this section shall diminish the duties of the Office of the County Clerk as prescribed by the General Assembly, although additional duties may be given to this office by this charter or by Ordinance of the Lincoln County Commission.

**Section 5.05. - Trustee.**

- A.** The duties of the Trustee are vested in and exercised by the Lincoln County Trustee. The duties, qualifications, oath of office, bond requirements, and compensation of the Trustee shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The general duties of this office shall include, but not be limited to, the responsibility for the collection of property taxes, the collection and disbursement of county funds, and the management of the county's cash flow and the investment of idle funds; provided, however, that nothing in this section shall diminish the duties of the Office of the County Trustee as prescribed by the General Assembly, although additional duties may be given to this office by this charter or by Ordinance of the Lincoln County Commission.
- B.** In accordance with state law, any individual assuming this office must recite the following oath of office in addition to any other oaths required by this charter:

"I, \_\_\_\_\_, Trustee (or Deputy Trustee ) do solemnly swear that I will faithfully collect and account for all taxes for my county, or cause the same to be done, according to law, and that I will use all lawful means in my power to find out and assess such property as may not have been assessed for taxation in my county, and return a list of the same on settlement. "

**Section 5.06. - Highway Superintendent.**

The duties of the Highway Superintendent are vested in and exercised by the Lincoln County Highway Superintendent. The duties, qualifications, oath of office, bond requirements, and compensation shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The general duties of the Office of Highway Superintendent shall be defined and prescribed by the General Assembly, although additional duties may be given to this Office by this charter or by Ordinance of the Lincoln County Commission.

**Section 5.07. - Circuit Court Clerk.**

The duties of the Circuit Court Clerk are vested in and exercised by the Lincoln County Circuit Court Clerk. The duties, qualifications, oath of office, bond requirements, and compensation shall be governed by the Constitution and the laws of the State of Tennessee and the Lincoln County Charter. The general duties of the Office of Circuit Court Clerk shall be defined and prescribed by the General Assembly, although additional duties may be given to this Office by this charter or by Ordinance of the Lincoln County Commission.

**Article VI. Education**

**Section 6.01. Board of Education**

- A. There is hereby created the Lincoln County Board of Education. The exclusive management and control of the school system of Lincoln County (hereinafter referred to as the "School Board") is vested in Lincoln County Board of Education (hereinafter referred to as the "Board of Education" or the "Board"). The Board of Education members shall be elected by the people and shall take office on September 1 following their respective elections.
- B. The Board of Education under this charter shall consist of eight (8) members elected from eight (8) school districts. The election cycle in place at the adoption of this charter shall continue under this charter.
- C. No person shall be eligible to serve as a member of the Board of Education unless that person meets the requirements of the laws of the state of Tennessee and this charter and is a registered voter in the district of both the county and their district for one (1) year prior to such person's election; provided, however, that the district residency requirement shall not apply in the first general election at which a seat on the Board of Education appears on the ballot following a reapportionment of the Board district.

- D.** A member of the Board must remain a full-time resident of the Board district which such member represents during their term of office.
- E.** No member of the County Commission or any other public official or employee of the Board of Education shall be eligible for appointment or election to the Board of Education.
- F.** No person with an immediate family member (spouse, child, parent, sibling) who is an employee of the School System shall be a member of the School Board (See Section 12.03.A.).
- G.** Any member of the school board who votes to create debts beyond the legitimate income provided in the school budget for any school year or in any way misappropriates or misuses school funds commits a Class A misdemeanor and shall forfeit office and shall be replaced by the County Commission. (TCA 49-2-204)

**Sec. 6.02. Board Duties and Powers.**

- A.** The board shall hold regular meetings at least monthly. The Chairperson may call such special meetings when, in their judgment, the interests of the public schools require it or when requested to do so in writing by four (4) members of the Board.
- B.** The Board, at its first meeting on or after September 1, 2014, and annually thereafter, shall elect from its membership a chairperson, vice-chairperson, and such other officers as the Board deems necessary.
- C.** The Board shall have all such duties, powers, and authority necessary or reasonably implied to manage and control the County School System as provided by the Tennessee Constitution, general law, this charter, or ordinance.
- D.** The Board of Education shall operate on a financial plan based on a balance budget for the current year and two (2) fiscal years forward (3 year total operations and financial planning budgets). Additionally, a five (5) year capital investment plan and budget must be maintained and updated each fiscal year, during the budgeting process (See Section 11.08.). No expenditure of funds shall be made or authorized in excess of the available unencumbered income.
  - 1.** Normal operating costs are things such as fuel costs, payroll, power bills, and similar recurring costs.
  - 2.** The Capital budget will consist of costs incurred for the purchase of equipment such as busses, computers, school equipment. and other things, not normally occurring on a regular basis (See Section 11.08.).

- E.** The Board shall adopt the current edition of Robert’s Rules of Order Revised to govern its proceedings, in accordance with this charter.
- F.** Five (5) members of the Board shall constitute a quorum.
- G.** Only members of the School Board shall serve as officers of the Board of Education. The chairperson shall be presiding officer of the Board and appoint all committees of the Board.
- H.** The Superintendent of Schools and the Chairperson of the Board shall constitute the Executive Committee of the Board and shall meet as often as necessary to perform their duties. All actions of the Executive Committee shall be submitted to the Board at its meetings and shall be subject to ratification, modification, or rejection by the Board.
- I.** Residents of Lincoln County will be able to address the Board for no more than three (3) minutes per person at the beginning and ending of regular meetings and committee meetings to make suggestions, ask questions, or ask for a redress of grievances. A good faith response must be given to the person(s) making complaints or asking questions.
- J.** Before the Board can move on to any new item of business or takes any vote, the chair must ask the audience for any questions or comments regarding the matter at hand. The chair must recognize any Lincoln County resident(s) who wishes to make a comment or ask a question. These questions or comments must be germane to item being discussed by the Board and will be limited to no more than one (1) minute, unless more time is allotted at the discretion of any Board member. A good faith response must be given to the person(s) making complaints or asking questions.
- K.** All members of the Board shall give bond in an amount and under terms as provided by law or ordinance.

**Sec. 6.03. Board salary and compensation.**

Each member of the Board shall receive compensation in the same amount per meeting as provided for members of the County Commission.

**Sec. 6.04. Superintendent of Schools.**

- A.** The superintendent/Director of Schools (hereinafter referred to as the “Superintendent”) shall be the chief administrative officer and executive official of the School System.
- B.** The Superintendent shall be responsible for the exercising of all executive administrative functions of the School System. The Superintendent shall have all duties and exercise all

powers and authority necessary to perform their responsibilities as authorized by general law, this charter, ordinance, emergency ordinance, or resolution.

- C. The Superintendent of Schools shall be selected in accordance with State law. At such time as the State law is changed to allow, the Superintendent shall be elected by the people of Lincoln County. Until such time that State law allows for the election of the Superintendent, there shall be a non-binding referendum at each regularly scheduled August general election that gives citizens of Lincoln County the opportunity to vote to approve or disapprove on the performance of the Superintendent.
- D. No person shall be eligible to serve as Superintendent unless that person meets the requirements of Tennessee state law and this charter and is a registered voter in Lincoln County. The superintendent shall conform to any previous requirements within ninety (90) calendar days of initial hiring.
- E. The Superintendent of Schools shall receive annual compensation, paid in equal monthly installments, of not less than the amount provided by general law or not less than any elected county official, except the Executive, whichever is greater.
- F. The Superintendent of Schools must be a full-time resident of Lincoln County during his/her term in office.

**Sec. 6.05. Board of Education Employees.**

- A. The handling of education employment in Lincoln County, shall meet the requirements of Tennessee state law.
- B. Any salary increases, changes in job titles/responsibilities, and any changes in the number of employees of the Board of Education or of the Superintendent, shall be approved in advance by a majority of the School Board. Failure to comply will constitute a violation of TCA 49-2-204.

**ARTICLE VII TRANSITION PROVISIONS**

**Section 7.01. Repeal of Contrary Laws.**

This charter shall occupy, as far as the Constitution of the State of Tennessee permits, the entire field of self-government for Lincoln County and all laws relating to or affecting this county or its agencies, officials or employees, and all county private acts, public acts of local application, ordinances, resolutions, orders, and regulations which are in force when this charter becomes fully effective are repealed to the extent that they are inconsistent with or interfere with the effective operation of this charter or of ordinances or resolutions adopted by the board of county commissioners under the provisions of this charter.

**Section 7.02. Referendum.**

This charter shall be submitted to the vote of the qualified electors of Lincoln County, Tennessee, at an election which shall be held in accordance with state law. The election shall be conducted by the offices and officers charged with conducting elections in the county. The ballots used in the election shall have printed on them a brief summary of the proposed charter as required by T.C.A. § 2-5-208(5). The ballots shall be prepared so as to provide a choice for voters as follows:

For a charter form of county government \_\_\_\_\_.

Against a charter form of county government \_\_\_\_\_.

**Section 7.03. Effective date.**

This charter shall become effective at the earliest date permissible by state law and shall be effective prior thereto to the extent necessary to permit elections to be held as otherwise provided herein during the year this charter become effective. The state laws relating to nominations and elections shall apply to the nomination and election of all officers required to be elected under this charter commencing with the primary and general elections of the year 2016.

**Section 7.04. Restructure act.**

All provisions of Chapter 260 of the Private Acts of 1974 ( the Restructure Act) which are not inconsistent with the terms of this charter, including all purchasing procedures, shall remain in full force and effect after the effective date of this charter until and unless they are amended, deleted, or otherwise changed by ordinance of the board of county commissioners. All divisions and departments of county government set forth in Chapter 260, Private Acts of 1974, shall remain in existence until and unless changed by the county commission or this charter.

**Section 7.05. Delivery of Documents.**

The head of a department or office or an agency or commission, the functions, powers, and duties whereof are assigned and transferred by this charter or by ordinance pursuant to this charter, shall deliver to the department to which such assignment and transfer is made, all contracts, books, maps, plans, papers, records, and property of whatever description within the jurisdiction or under the control of that person or entity pertaining to or used in connection with the exercise or performance of the functions, power and duties so assigned and transferred; and the head of the department to which such assignment and transfer is made shall authorized to take possession thereof.

**Section 7.06. Resolutions and Regulations.**

All resolutions, orders, regulations, and directives of the Board of county commissioners and all other county officers and offices in full force at the time this charter takes effect, to the extent they are not inconsistent with the provisions of this charter, shall remain and be in force and effect until altered, modified or repealed in accordance with this charter.

**Section 7.07. Pending Matters**

All matters pending before or under consideration by the Board of county commissioners at the time this charter takes effect, to the extent they are not inconsistent with the provisions of

this charter, may be acted upon and disposed of as if they had originated and had been introduced under this charter.

#### **Section 7.08. Judicial Proceedings.**

All judicial proceedings of any kind or character, and all condemnation proceedings for the taking or damaging of private property for public use, and all proceedings to incur debt and issue bonds, begun or pending at the time this charter takes effect, all contracts for the doing of any kind of public work, not completed and performed at the time this charter takes effect, and all contracts or bids for the purchase or sale of property entered into prior to the time this charter takes effect but not consummated at such time shall in no way be affected by the adoption of this charter; but the same may be completed in every respect as nearly as may be in accordance with the provisions of this charter.

#### **Section 7.09. Rights and Obligations.**

All rights of action, contracts, obligations, titles, fines, penalties, forfeitures, and fees, accrued to or in favor of the county, or against the county, before this charter goes into effect, shall remain in existence in full force and effect as fully in every respect as if this charter had not taken effect. All recognizances, contracts and obligations lawfully entered into or executed by or to the county, and the lien thereof, all taxes due or owing to the county, and the lien thereof, and all writs, prosecutions, actions and causes of action shall continue and remain unaffected by this charter.

#### **Section 7.10. Elected and Appointed Officers**

- A.** All officers elected or appointed for definite terms under the provisions of this charter shall continue to hold office unless lawfully removed until their respective successors are duly elected or appointed and qualified.
  
- B.** During the 2018 election, the County Commission will transition to its nine (9) member makeup (Section 2.03. B.), in accordance with this charter. Commission Seats two (2), four (4), six (6), and eight (8) will be elected in the election of 2018 for an initial extended term of six (6) years and every four (4) years thereafter. Commission Seats one (1), three (3), five (5), seven (7), and nine (9) shall be elected in the election of 2018 for a term of four (4) years and every four (4) years thereafter.

#### **Section 7.11. Commission Districts.**

The districts, from which the Board of county commissioners shall be elected in August 2018, shall be the same as the districts existing in August 2014.

#### **Section 7.12. Salaries.**

- A.** The salary of the first board of county commissioners elected under this charter shall be as prescribed by state general law for boards of county commissioners; the expenses or any other form of remuneration provided for the first board of county commissioners elected shall be that as provided on Jun 15, 2018.
  
- B.** The compensation of the first County Mayor elected under this charter shall be set by the board of county commissioners at their first meeting after the effective date of this charter.

### **Section 7.13. Depositories**

The procedure for selecting depositories or custodial institutions for county funds in force at the adoption of this charter shall remain in effect until and unless changed by ordinance of the board of county commissioners.

### **Section 7.14. Private Acts.**

All private acts of the General Assembly of Tennessee which affect Lincoln County and which are in effect on at the effective date of this charter shall, to the extent not inconsistent with this charter, be deemed ordinances of Lincoln County, and shall remain in effect until and unless repealed or amended by the board of county commissioners.

## **Article VIII Elections**

### **Section 8.01. No Special Elections**

Lincoln County cannot conduct special elections.

### **Section 8.02. Primary Election Required**

Lincoln County shall only hold primary elections that are required by state or federal law.

### **Section 8.03 Date of Primary**

In years in which a Presidential Preference Primary is to be held in the State of Tennessee, the Primary Election shall be held on the date selected by the Legislature for said Presidential Preference Primary. Where so authorized by state law, the County Commission may by ordinance passed at least one (1) year before the proposed date, set the date for the primary on such date as the County Commission determines shall be the most economical and convenient for the citizens of Lincoln County.

### **Section 8.04. Qualifying Petitions**

- A.** Any person deciding to submit his/her name to the voters in an election shall submit a qualifying petition, in compliance with general law. The County Election Commission shall verify the compliance of the petition with all requirements and declare the person a candidate and place his/her name on the primary ballot pursuant to general law.
- B.** In years in which a Presidential Preference Primary is to be held in the State of Tennessee, the qualifying petitions shall be filed no later than the date and time set forth for the filing of qualifying petitions for the Presidential Preference Primary. Where so authorized by law, the County Commission by ordinance passed at least one (1) year before the date proposed, may set the date and time for filing qualifying petitions for the County Primary Election, provided that such date shall not be more than ninety (90) days preceding and no less than forty-five (45) days preceding the County Primary Election.

### **Section 8.05. Notice of Election and Other Provisions**

All voters shall have the right to cast write-in ballots as provided by general law. The Election Commission shall give public notice of the election and employ officials to hold the



primary as provided by general law. No person shall be placed on the ballot for any office in the August general election, subject to the provisions of this Article, and designated as a nominee of a political party, unless such person has received such nomination by virtue of having been selected as that party's candidate for such office in such County Primary Election except for replacement of candidates as provided by general law or when a vacancy occurs for which parties select nominees at a time in which compliance with the provisions of this Article is not possible.

#### **Section 8.06. Recall**

- A.** This recall provision is applicable to all elected officials holding positions in Lincoln County, but in no event shall such county officials be subject to recall during the first one hundred eighty (180) days or the last one hundred eighty (180) days of the term for which such county officials were elected.
  
- B.** Such recall petition, process, and recall election shall meet the requirements of state law.
  
- C.** Notwithstanding subsection (B) in the case of a recall of an official elected county-wide, the petition must be signed by qualified voters of Lincoln County equal in number to at least twenty percent (20%) of the persons who voted in the last gubernatorial election in Lincoln County. However, in the case of a recall of a District County Commissioner or member of the Board of Education, the petition must be signed by qualified voters of the officeholders' district equal in number to at least twenty percent (20%) of the persons who voted in the last gubernatorial election in Lincoln County in the district represented by said official.
  
- D.** Notwithstanding subsection (B), the signed recall petition shall be filed with the Lincoln County Election Commission within ninety (90) days after final certification of the proper form of the petition by the Election Commission.
  
- E.** In a recall election, the following question shall be presented to each qualified voter: "Shall (name of officeholder) be recalled and removed from the office of \_\_\_\_\_(name of office)?"
  
- F.** If a majority of the voters vote "Yes," the incumbent shall be deemed recalled and removed from office upon the certification of the recall election results by the Lincoln County Election Commission.
  
- G.** In the event the incumbent is recalled, subject to Section (H) and pending the election provided for in Section (H), the County Commission shall fill the vacancy, pursuant to this charter, with a person meeting the qualifications for said office until his/her successor is elected, qualified, and sworn following the next general election.
  
- H.** In the event the incumbent is recalled, an election to fill the vacancy shall be held at the next general election occurring at least thirty (30) days following certification of the recall. All such elections shall be held in the manner provided by law for holding a county general election.

- I. The person appointed to the vacancy created by the recall shall serve the remainder of the term of that office.
- J. It shall be a violation of the Lincoln County Charter, punishable by a fine of Ten Thousand Dollars (\$10,000.00), for any person, directly or indirectly, personally or through any other person:
  - a. By force or threats to prevent or endeavor to prevent any qualified voter from signing or promoting a petition for recall;
  - b. To make use of any violence, force, or restrain or to inflict or threaten the infliction of any injury, damage, harm or loss; or
  - c. In any manner to practice intimidation upon or against any person in order to induce or compel such person to sign or refrain from signing a petition for recall;
- K. Any Lincoln County voter who has reasonable suspicion of the foregoing (J) shall report said acts to the Lincoln County Election Commission and one of the following: the Lincoln County Sheriff or the District Attorney General.
- L. The General Sessions Court shall have jurisdiction of such charter violation.
- M. This charter subsection is in addition to and does not supplant any provision of state law which may render any of these acts a felony or misdemeanor.

#### **Section 8.07. Delay in Scheduled Elections**

For any reason, being natural disasters or other causes, if regular elections are delayed, all incumbent county officeholders whose terms are expiring will continue in their current positions until such a time that regularly scheduled elections may occur.

### **Article IX GENERAL PROVISIONS**

#### **Section 9.01. - Title and Filing Charter.**

A. This charter shall be known and may be cited as the "Charter of Lincoln County, Tennessee."

B. Pursuant to T.C.A. 5-1-209, the certified copy of the Charter of Lincoln County, Tennessee and the Proclamation of the Secretary of State of the State of Tennessee showing the result of the August 2014 election shall be deposited with the County Clerk for permanent filing.

#### **Section 9.02. - Construction of the Charter.**

Within the limits imposed by this charter, the Constitution, and all applicable laws of the State of Tennessee, the county shall have all powers necessary and proper for the conduct of its affairs, including all powers that counties may assume under the Constitution and all applicable laws of the State of Tennessee concerning home rule.

**Section 9.03 - Construction of Words in this Charter.**

For the purpose of this charter, all masculine pronouns used herein shall also mean the feminine of said pronouns unless otherwise specified. Likewise, the singular shall also include the plural, unless otherwise specified.

**Section 9.04 - Qualification and Oath of Elected Officers and Appointed Officials.**

A. Before entering upon their duties, every officer whose election or appointment is prescribed in this charter shall meet all qualifications provided by this charter and all applicable laws of the State of Tennessee and shall take and subscribe to the following oath or affirmation before a person authorized to administer oaths:

**" I do solemnly swear (or affirm) that I will support, obey and defend the Constitution of the United States, the Constitution of the State of Tennessee, and the Charter of Lincoln County, Tennessee, and that I will faithfully discharge the duties of my office to the best of my ability."**

B. Any person refusing to take the oath or affirmation shall forfeit that office immediately.

**Section 9.05. - Residence and Qualifications of County Officials and Employees.**

A. Any county commissioner who shall remove their full-time residence outside the district from which elected or appointed shall forfeit that office immediately.

B. Any county officer or official, elected or appointed, who shall remove their full-time residence outside Lincoln County shall forfeit that office immediately.

C. Any lawyer, either elected or employed by the county in a legal or judicial capacity, who is suspended or barred from the practice of law in the State of Tennessee, shall forfeit that office immediately and shall not hold office or be reemployed during the term of such suspension or disbarment.

**Section 9.06. - Holding More than One Compensated Office.**

No county official shall be eligible to hold any other local, county, state, or federal elected or appointed office or be employed by Lincoln County. If a county official assumes another compensated office, be it local, county, state, or federal, the official shall vacate the county office immediately. Provided, however, anyone who currently holds another compensated office may run for an elected office so long as, if elected, that person resigns the existing office within ninety (90) days of his/her election or taking the oath of that elected office, whichever comes first.

**Section 9.07 - Amendments to this Charter**

A. The Commission of Lincoln County may frame and, by a favorable vote of two thirds (2/3) of the Commission, propose amendments to this charter. Except as otherwise provided in this Subsection, every ordinance proposing a charter amendment shall be introduced in the form and manner, and governed by the procedure and requirements, prescribed for ordinances generally. Every such ordinance proposing a charter amendment shall contain,

after the enacting clause, the following, and no other matter: (1) a statement that the charter amendment set out in the ordinance is proposed for submission to the voters of Lincoln County in accordance with the requirements of this charter, and (2) the full text of the proposed charter amendment. Such an ordinance shall become effective upon adoption, and its effect shall be to require that the Lincoln County Clerk immediately deliver a certified copy of the ordinance to the Lincoln County Election Commission and that the Election Commission submit the proposed charter amendment, therein contained, to the voters of Lincoln County as provided in Section 9.07.C.

**B.** Voters of Lincoln County may frame and propose amendments to this charter by a petition addressed to the Lincoln County Board of Commissioners, which petition shall contain the information required by Section 9.07.A for ordinances proposing amendments, and no other matter except as hereinafter provided in this Section 9.07.B. Notwithstanding the provisions of Section 2-5-151(d) of the Tennessee Code Annotated, any petition proposing a charter amendment must be filed with the Lincoln County Clerk and must be signed by qualified voters of Lincoln County equal in number to at least fifteen per cent (15%) of the persons who voted in the last gubernatorial election in Lincoln County. The County Clerk shall immediately deliver said petition to the County Election Commission. When the Lincoln County Election Commission determines that such petitions are legally sufficient, it shall submit same to the voters of Lincoln County in accordance with Section 9.07.C. Amendments shall be on the ballot at the next regular election, after the amendment meets the requirements of this charter; there can be no special elections.

**C.** Any and all proposed charter amendments to be submitted to the voters of Lincoln County shall be submitted to the Lincoln County Election Commission in accordance with state law. The Lincoln County Election Commission shall submit any charter amendments certified and delivered to it, in accordance with the provisions of this Section 9.07, to the voters of Lincoln County at the next regular State or County election following the delivery to the Lincoln County Election Commission of the ordinance or petition proposing the amendment. Not less than three (3) weeks before any election at which the proposed charter amendment(s), in the form as provided by law, in a daily newspaper of general circulation in Lincoln County. The form of the ballot for submission of proposed charter amendments shall be governed by the laws of the State of Tennessee concerning referendum elections. If a majority of the voters of Lincoln County voting upon a proposed charter amendment votes in favor of it, the amendment shall become effective at the time fixed in the amendment or, if no time limit is therein fixed, thirty (30) days after its adoption in the manner provided in this charter for adopted ordinances.

**Section 9.08. - Severability.**

If any article, section, or provision of this charter shall be held unconstitutional, invalid, or inapplicable to any person or circumstance, then it is intended and declared by the people of Lincoln County that all other articles, sections, or provisions of this charter and their application to all other persons and circumstances shall be severable and shall not be affected by any such decision.

**Section 9.09. - Liability and Void Obligation if Contrary to Charter.**

- A.** Except as otherwise provided in this charter, every obligation incurred and every authorization of payment in violation of the provisions of this charter are void. Every payment made in violation of the provisions of this charter is illegal, and all county officials who authorize or make such payment or any part thereof are jointly and severally liable to Lincoln County for the full amount so paid or received. If any Lincoln County official makes any payment or incurs any obligation or takes part therein in violation of the provisions of this charter, that action shall be cause for his/her discharge from office or employment.
- B.** Nothing contained in this charter is intended to prevent the making or authorizing of payments or making of contracts for capital improvements to be financed wholly or partially by the issuance of bonds, nor shall it prevent the making when permitted by law of a contract or lease providing for payment of funds at a time beyond the end of the fiscal year in which the contract or lease is made. But any contract, lease, or other obligation requiring the payment of funds from the appropriations of a later fiscal year or of more than one (1) fiscal year shall be made or approved by resolution.

**Section 9.10. - Service of Process on County.**

Service of any legal process, notice, or other matter to be served upon Lincoln County pursuant to any rule, regulation, or law shall be made upon the Mayor of Lincoln County or as authorized by law.

**Section 9.11. - Bonding of Officers and Employees.**

The Mayor and such other officers and employees, as the commission may provide, shall give bond in the amount and in surety form prescribed by the Commission. The premiums of such bonds shall be paid by Lincoln County.

**Section 9.12. - Public Meetings and Records.**

- A. Open Meetings.** In accordance with Tennessee law, all official meetings of boards, commissions, and authorities shall be public.
- B. Public Records.** In accordance with Tennessee law, all county records shall be public documents and shall be open for inspection. All such records shall be posted on the official Lincoln County website (on line) within five (5) working days.
- C. Open Records Requirements.** All county records must be open and posted on the official Lincoln County website for personal inspection by any citizen. County officials in charge of these records may not refuse the placement of such records on the official Lincoln County website, unless another statute specifically provides otherwise, or they are included in the list of specific records that are to be kept confidential under T.C.A. 10-7-504 or some other legal authority. Information made confidential by Title 10, Chapter 7 must be redacted whenever possible. T.C.A. 10-7-503(c)(2). For Lincoln County, one important class of confidential records involves personal information of state, county, municipal, and other public employees. An employee's, including a former employee's, home telephone and personal cell

phone numbers, bank account information, health savings account information, retirement account information, pension account information, Social Security number, residential address, driver's license information, and similar information for the employee's family and household members are confidential. Where this confidential information is part of a file or document that would otherwise be public information, such information shall be redacted if possible so that the public may still have access to the non-confidential portion of the file or document. T.C.A. 10-7-504(f)&(g).

**D. Computer Records Storage Requirements.** Any information required to be kept as a record by any government official shall be maintained on computer storage media and posted on Lincoln County's official website, in addition to bound books or paper records. Effective with the adoption of this charter, Lincoln County must create safeguards and procedures for ensuring that confidential information regarding citizens is securely protected on all laptop computers and other removable storage devices used by Lincoln County.

**E. Remote Electronic Access to Lincoln County Records.** Each county official, elected, appointed, or employed by Lincoln County, will provide computer access and remote electronic access, for inquiry only, to information contained in the records, through the official county website, during and after regular business hours. However, remote electronic access to confidential records is prohibited. The equipment, software, and procedures used will ensure that this access will not allow a user to alter or impair the records.

### **Section 9.13. Lobbying Spending**

Under no circumstances are Lincoln County Government monies to be used to pay to influence or lobby anyone in rule or law making positions either directly or indirectly on the local, state, or national governments or organizations. If such costs are embedded in membership fees or dues for local, state or national organizations, such cost will be separated and the Lincoln County Government will only pay the applicable membership portion of the fees or dues. If those cost of influence cannot be separated from membership cost, then the Lincoln County Government will not pay for membership in any local, state, or national organization for any elected official or employee of the Lincoln County Government. Lincoln County Government monies are those monies collected from county property tax, sales tax, wheel tax, fees from services provided, processing fees, sale of privilege licenses, fines, penalties, and any other monies collected or borrowed by the Lincoln County Government.

### **Section 9.14. Petitions for Recall, Referendum, and Initiative to be Applicable**

**A.** The Lincoln Home Rule Charter does hereby adopt Tennessee State law (2-5-151) Petitions for recall, referendum or initiative to be applicable within Lincoln County, Tennessee. All referendum outcomes are binding on the Lincoln County Government.

**B. Tennessee State Law (2-5-151) Petitions for Recall, Referendum or Initiative**

1. After a registered voter of Lincoln County shall have filed with the Lincoln County Election Commission the proper form of the petition and the text of the question posed in the petition and the Lincoln County Election Commission has certified the petition, the petition and all copies of the petition will become official documents of the Lincoln County Government. Any act of theft, defacing, or destruction will be a class B misdemeanor punishable by: first offense a \$50 fine; second offense a \$100 fine; third offense a \$500 fine and 100 hours of community service; and any subsequent offenses will be \$500 fine and 100 hours of community service for each additional offense.
2. The petitioner will place his/her name, address, and phone number upon each petition and copy.
3. During the certification process by the Lincoln County Election Commission of the Lincoln County voter signatures, the petitioner and another person of his or her choosing will have the right to witness the certification of the voter signatures. If the petitioner is unable to attend the certification process, the petitioner will submit a letter to the Lincoln County Election Commission, appointing their replacement and identifying the other person to witness the certification process.
4. If a voter signature fails certification, the petitioner or appointee will be granted the right to cure the problem and said voter signature re-examined for certification.
5. The certified petition will appear on the referendum ballot verbatim as certified by the Election Commission. The petitioner will have the right to verify the referendum ballot before the election.
6. Completed petitions shall be filed with the Lincoln County Election Commission within ninety (90) days after final certification of proper form of petition by the Lincoln County Election Commission.
7. It shall be a violation of the Lincoln County Charter, punishable by a fine of Ten Thousand Dollars (\$10,000.00), for any person, directly or indirectly, personally or through any other person:
  - a. By force or threats to prevent or endeavor to prevent any qualified voter from signing or promoting a petition;
  - b. To make use of any violence, force, or restrain or to inflict or threaten the infliction of any injury, damage, harm or loss; or
  - c. In any manner to practice intimidation upon or against any person in order to induce or compel such person to sign or refrain from signing a petition.

### **C. Petition Signature Requirements**

1. The required number of voter signatures will be equal to seven percent (7%) of the county voters, who voted in the last gubernatorial election, for non-recall petition that do not deal with amendments to this charter.
2. Recall of elected county officials petitions:
  - a. County wide office holder recall petition voter signatures will be equal to twenty percent (20%) of the county voters, who voted in the last gubernatorial election.
  - b. District office holder recall petition voter signatures will be equal to 20 percent (20%) of the county voters, who voted in the last gubernatorial election within the district of the officeholder to be recalled.
3. Completed petitions shall be filed with the county election commission within ninety (90) days after final certification of petition by the Lincoln County Election Commission

### **Section 9.15. Additional Referendum Provisions**

The Lincoln County Government will be put on notice, when the Lincoln County Election Commission has certified a non-recall referendum petition is in proper form. Upon signature validation and certification of a referendum petition, the measure that is subject to the referendum shall be rendered not in effect, there will be a stoppage of work or activity and all funding to the measure suspended, pending the outcome of the referendum. However, if the Lincoln County Government agrees to meet and abide by the all terms of the subject measure in the referendum petition by vote of the Legislative body with Executive approval, the referendum petition requirements will be deemed met by the petitioner or appointee and will not be placed on the next election ballot by the Lincoln County Election Commission. This section (**Section 9.15.**) does not apply to the amendment process of this charter.

### **Section 9.16. Real Property Acquisition Requirements**

Before real property can be acquired by the Lincoln County Government, the following due diligence must be performed by the County Mayor. Real property is defined to mean land and buildings.

#### **A. Purchase of Land or Building and Land**

1. A Requirements Document must be written and contain at a minimum, an in-depth detail description of what is proposed to be acquired; the reasons for requesting the acquisition; a description of the acquisition's benefit(s) to the citizens of Lincoln County; the projected cost of the project—to include any site preparation work, utility costs, sewers, remodeling, etc.; its impact on the operating budget in cost of additional staff, furnishings, maintenance, utilities, insurance, etc.; and the proposed financing method, costs to finance, and interest cost. The requirements must be written in such a manner that would create the most sources to meet the acquisition needs. If there is only one



source meeting the requirements, a sole source justification on why the requirements were written, that limited competition, will be included in the requirements documents.

2. A Risk Assessment report detailing all associated risk and a risk mitigation plan must be written.
3. After the Requirements Document and Risk Assessment report have been prepared with the required information, the County Mayor will make a presentation to the Lincoln County Board of County Commissioners of the Requirements Document, Risk Assessment, and supporting data. The Lincoln County Board of County Commissioners may request more information or may approve the documents by a two-thirds (2/3) majority vote of the commissioners to schedule a public hearing to present the acquisition plan to the citizens of Lincoln County or may vote to not proceed with the acquisition. The Lincoln County Board of County Commissioners will not vote on the acquisition until a meeting after the public hearing and actual contractual costs have been established, the vote will require a two-thirds (2/3) majority for approval. If the real property acquisition requirements are not strictly followed, acquisition of said property acquired will be voided, all monies will be refunded to the Lincoln County Government, and title shall pass back to the previous owner.

#### **B. New Construction or Additions to Existing Buildings**

The same due diligence steps must be performed by the County Mayor as in (Section 9.16. A.) above. The county board of commissioners may by resolution resolve to engage an architect or engineer to render drawings and a more formal estimate of the project costs. After receipt of the architectural or engineering drawings, the Lincoln County board of county commissioners will schedule a public hearing with the citizens of Lincoln County before proceeding to final vote on the project.

#### **C. Real or Personal Property Being Donated To or Sold To Lincoln County**

All real or personal property which is offered as a gift to or for the purchase by Lincoln County shall only be accepted as a gift or considered for purchase if said real or personal property has a clean, clear, and unencumbered title to such property at the time the transfer of title or acceptance of such gift is made by Lincoln County. Any gifted personal property must be in good working order for its intended use.

#### **Article X Pensions**

The intent of this charter is to continue the existing pension/retirement system as it existed prior to the adoption of this charter, according to applicable laws of the State of Tennessee.

## **Article XI Financial Controls and Accountability**

### **Section 11.01. Audits and Reporting**

- A.** An annual audit of all county revenues, accounts, and accounting and spending practices, must be performed at the close of each fiscal year. Such audits shall be made by the Tennessee Comptroller General, a certified public accountant, or by a firm of certified public accountants designated by the County Commission. No individual auditor or member of an auditing firm so designated shall have any personal financial interest, direct or indirect, in the fiscal affairs of the county or of any of its offices. The designated certified public accountants shall be qualified by training and experience and shall have sufficient staff to perform the audits. No individual certified public accountant or firm of certified public accountants shall be employed to perform the audits for more than three (3) successive years. The audit shall be completed within six (6) months after the close of the fiscal year. The County Commission may provide for special audits, as it deems necessary as provided in Section 2.02. A.
- B.** Annually, in regards to defeasance relationships Lincoln County has with a third party (trust or fiduciary ), an independent auditor must give an opinion as to the reasonableness of the trust to meet Lincoln County obligations within the trust.
- C.** Annually, during the budgeting process, in regards to all discretionary fund accounts in which tax dollars were placed, full and detailed accounting reports of all funds expended will be made. All expenditures of such discretionary funds will be accounted for as to, (1.) where said funds were transferred, (2.) to who/what said funds were issued, and (3.) for what goods or services were received. Accountability reports for all discretionary funds shall be clearly posted on the Lincoln County web site in a prominent position in the final financial statement of the previous year's budget.

### **Section 11.02. Budget Plans and General Financial**

- A.** The county and each department within the county government shall operate on a financial plan based on a balance budget for the current year and two (2) fiscal years forward (3 year total operations and financial planning budgets). Additionally, a five (5) year capital investment plan and budget must be maintained and updated each fiscal year, during the budgeting process (See Section 11.08.). No expenditure of funds shall be made or authorized in excess of the available unencumbered income.
- B.** County budgets shall be determined by the projected county income of the existing departments, agencies, offices, and debt payments and shall include estimates of capital improvement projects pending or proposed to be undertaken
- 1.** Within ensuing fiscal year
  - 2.** Within two (2) fiscal years immediately thereafter (must include risk assessment)
  - 3.** With the five (5) year capital investment plan (must include risk assessment)
- C.** All surplus funds in all budget line items shall be zeroed out in the first budget prepared under this charter, including the school budget. The surplus funds from each department will be returned to departmental contingency funds, which shall be maintained by each

department. Any other fund balances not required by existing County Commission resolution shall be canceled.

- D.** A total budget contingency fund shall be maintained at five percent (5%) of the county budget.
- E.** All tax rates shall be adopted by ordinance and are subject to any limitation(s) established in this charter.
- F.** Lincoln County adopts Tennessee Code Annotated 67-5-705 (Property Tax Freeze Act). This allows for seniors citizens, who meet age, income, and living requirements—set by state law—to freeze their property taxes.
- G.** Lincoln County adopts Tennessee Code Annotated 5-12-215 (Impoundment power to prevent deficit operation – Override – Applicability).
  - 1.** “If at any time the County Mayor determines that the revenues or other resources are, with respect to any fund, less than was anticipated in the adopted budget, or if unanticipated expenditures arise that will likely create a budget deficit, the County Mayor, upon certification to each member of the county legislative body, may impound such appropriation as may be necessary to prevent deficit operation. Such impoundment power may be overridden by a two-thirds (2/3) vote of the county legislative body, if the county legislative body makes such amendments at the same meeting to the budget as may be necessary to prevent deficit operation. Such necessary amendment requires a majority vote of the county legislative body. Notwithstanding this section, there shall be no impoundment of funds previously appropriated to the trustee, clerks of courts, register of deeds, county clerk, assessor of property, or sheriff.”
- H.** No county real estate or natural resources can be transferred out of the direct control of the County Commission or Executive Branch to an independent board or person without approval by voter referendum.
- I.** Lincoln County is prohibited from imposing a county income tax.

### **Section 11.03. Tax Raises and County Income**

- A.** Any tax rate increase or new tax must be submitted to the citizens for approval before being enacted and must comply with this charter. All tax increase proposals must be voted upon by the voters at regular elections in accordance with this charter. The county shall not hold special elections to vote on tax increases.
- B.** If a new tax increase is proposed, no other Lincoln County department or organization shall automatically be included in the proposed tax increase. Each increase in taxes must stand on its own merits and justifications.
  - 1.** No tax raise can be tied to an automatic increase in funding.
  - 2.** No more than one (1) tax can be included in a proposal to raise taxes.

- C. If a tax increase is for a capital item (buildings, bridges, sewers, etc.), the said tax increase must be for a stated period of time and must be removed from the tax rolls at the end of the stated period. Any residual amounts of taxes collected for the proposed capital item, after retirement of the debt, will be applied to the Capital Budget.
- D. The county's detailed projected total income for each year (plus the next four (4) years—by year—projections) shall be based on the following:
  - 1. Property taxes
    - a. Using state statistics, the County Commission must establish the growth in the county from the previous year and project this growth (or decline) for the next four (4) years.
  - 2. State disbursement of taxes
  - 3. State disbursement of school funding
  - 4. Fees and other county or departmental income

#### **Section 11.04. Reporting to the Executive Branch During Budgeting Process**

- A. The head of each county department as well as all elected county officials and clerks of courts shall furnish to the County Mayor in a form specified by the mayor:
  - 1. Detailed estimates of the revenues and expenditures of their office for the ensuing fiscal year and the two (2) fiscal years immediately thereafter,
  - 2. Detailed estimates of the costs of any capital improvements pending or proposed to be undertaken within the ensuing fiscal year and within the four (4) fiscal years immediately thereafter, and
  - 3. Such other information, related to budgeting, as the County Mayor requests.
- B. The County Mayor will then submit the information obtained to the County Commission.

#### **Section 11.05. Zero (0) Based Budgeting**

- A. Each Fiscal Year, the head of each county department, all elected county officials, clerks of courts as well as any other entity requesting money from citizens of Lincoln County and all other county entities or organizations for which the Lincoln County Government is ultimately responsible for their debts, in consultation with The County Mayor (Section 11.04) and County Financial Director, shall prepare and submit a zero (0) based budget to the County Commission and its committee(s) responsible for reviewing the budget.
- B. These Zero (0) Based Budgets:
  - 1. Must be built from the bottom up each fiscal year, starting with a blank slate each fiscal year.
  - 2. Must include a breakdown of the proposed zero (0) based budget proposal for the three (3) year operations and financial planning budget and five (5) year capital investment budget. (See Section 11.08.)
  - 3. Must note any increase from the previous year's operations and financial planning budget as well as any changes in the capital investment budget.
  - 4. Must note the total amount of real spending on operations and capital investment the department/office/organization/etc. spent the previous spending year. This figure should include the total amount approved throughout the year by the County Commission as

well as the total amount of funds spent by the department/office/organization/etc.

5. Must be itemized to the lowest level of cost reported.
6. Capital Improvement budgets shall not be altered or varied between yearly budgets except with the approval of the Commission by resolution.

#### **Section 11.06. Budget Review Process**

- A. The County Commission budget committee must receive proposed budgets from all offices, departments, county branches, and any entity or organization wishing to obtain funds from Lincoln County as well as all other county entities or organizations for which the Lincoln County Government is ultimately responsible for their debts.
- B. Each member of the County Commission must be an active member of the budget committee.
- C. The budget committee is responsible for reconciling the proposed budgets of the individual offices, departments, schools, and other entities that receive funds from Lincoln County with the revenue projections of the County Financial Director to create a proposed annual budget which does not exceed the fiscal year's revenue projection, while maintaining a minimum five percent (5%) contingency fund.
- D. The budget committee will present the proposed annual budget to the citizens of Lincoln County and accept comments and input sixty (60) days prior to an initial vote on whether or not to adopt the budget.
- E. The budget committee must review all operations and financial planning budgets as well as all capital investment budgets and debt management policies.
- F. All committee meetings regarding budgets shall be open and shall include time for citizen comments and questions (See Section 2.11).

#### **Section 11.07. Administration of the Budget**

The head of each county department, all elected county officials, clerks of courts, and any others receiving money from the county, are responsible for managing their approved budgets as well as keeping their operations and capital expenditures within budget.

#### **Section 11.08. Capital Improvement Plan and Budget**

- A. The Capital Improvement Plan and Budget (CIPB) is implemented to help the Lincoln County Government better manage the citizens of Lincoln County's resources by reserving incremental amounts in current periods for future needs. Items to be included in the CIPB are building maintenance and planned new equipment or replacement equipment. These costs do not occur every budget year but will occur at some point in the future. The Lincoln County Government will reserve an amount each year in its Capital Improvement Plan and Budget equal to the total of the annual reserves of the items in the CIPB.

1. Building maintenance are costs beyond annual maintenance costs—such as new roofs, remodeling, HVAC replacements, etc.
  2. New equipment is defined as equipment not being used by the Lincoln County government in performance of current tasks but is in future plans.
  3. Replacement equipment is defined as replacement of similar equipment being used by the Lincoln County government in performance of current tasks.
- B.** Equipment to be included in the CIPB will be those items that's costs are greater than two percent (2%) of each department's annual budget in the Lincoln County government where the equipment is assigned or \$25,000, whichever amount is less. The annual item reserve amount for each item in the CIPB will be the projected total cost of the item divided by the number of years before the item is planned to be purchased or replaced. If an item has been placed in the CIPB due to requirements or technology changes a substitution may be made. The substitution's projected cost less the total amount of accumulated reserve divided by the total number of years before purchase equals the new annual reserve. In the event equipment in the CIPB is deemed no longer necessary, its accumulated reserves will be transferred to a CIPB contingency fund to be used to cover any short falls in future CIPB purchases. Annual budgeted funds to the Capital Investment Plan and Budget will only be used for approved items in the CIPB and cannot be transferred to the any annual operating budget. Although the detail CIPB is for five (5) years, items will be included that project out further in the future than five (5) years.
- C.** In implementing the CIPB, once the charter has become effective, there will be a three (3) budget year transitional period before total implementation of the CIPB.

### **Section 11.09. Debt Management**

- A.** Lincoln County will provide a clear disclosure of the terms and life of each debt issue, including principal and interest payments required, whether annually or at the time the debt is issued; this disclosure must include a debt service schedule outlining the date of retirement for the principal amount (including such accounts of the Lincoln County Board of Public Utilities, Lincoln County Health System, enterprise funds, and the like).
- B.** Joint ventures with other government entities will be considered as outstanding debts that will be included in the total amount of debts to which the Lincoln County government has committed by the signing of the debt instruments. If the other government entities involved in the joint venture cannot meet their obligations, then the total amount of the obligations will fall upon the citizens of Lincoln County to pay. If the debt instruments that the Lincoln County government executes have only the Lincoln County government's obligation, then that amount will be the amount of outstanding debt attributable to Lincoln County as outstanding debt.
- C.** The total outstanding debt will include all short and long term debt incurred by the Lincoln County Government, the Lincoln County School System, the Lincoln County Board of

Public Utilities, the Lincoln County Emergency Communications District, other Lincoln County government entities or organizations, joint ventures with other government entities, third party fiduciary relationships (defeasance) or capital or financial leases. The Outstanding Debt Report will show all outstanding debt including short and long term debt. If third party fiduciary relationships (defeasance) exist, the amount to be shown in the report is the total amount of debt less any monies available to retire debt. The Outstanding Debt Report will show all debt, short and long term, that the citizens of Lincoln County are responsible to pay.

- D.** Lincoln County will annually report:
  - 1. Net debt calculation (total principal outstanding less most recent year respective debt fund balance)
  - 2. Calculations of percentage of total debt to assessed property value
  - 3. Calculation of debt to per capita income
  - 4. Calculation of net debt per capita
  - 5. Documentation of the most recent debt rating
- E.** Any county owned asset which is used to secure any debt will not be used to secure new debt without the encumbered asset being unencumbered for a minimum of twelve (12) months.
- F.** Lincoln County will not renew or re-issue any instruments of debt which will extend the date of maturity of any outstanding debt.
- G.** The Lincoln County Commission must approve or dis-approve all contracts for financial services longer than one (1) year.
- H.** Lincoln County will not backload, use "wrap around" techniques, balloon payments or other exotic formats to pursue the financing of projects. When refunding opportunities, natural disasters, other non-general fund revenues, or other extended factors occur, the county may utilize non-level debt methods. However, the use of such methods must be thoroughly discussed in a public hearing and the County Financial Director must determine such use is justified and in the best financial interest of the county.
- I.** Lincoln County will adopt a capital asset policy for asset useful lives. No repayment schedule of debt will extend past the useful life of the asset for which the funds were issued. The most current, adopted county's asset policy will be referenced for asset useful lives. No refunded debt issue will extend beyond the useful life of the asset for which the original debt was issued.
- J.** All leases will be reviewed by the County Attorney prior to execution of the lease, in order to determine if the instrument is a capital or operating lease.
- K.** If borrowing or using capital outlay notes, the county will solicit a minimum of three (3) rate and issuance cost quotes and select the lowest, best offer. The county will contact the state loan pool to solicit a quote from the pool, as well as local banks.

- L.** In the cases of refinancing: (1.) An analysis report must be provided that fully explains the reasons for the refinancing and the net savings and the costs of the refinancing which will include not only interest charges, but also the fees associated with the transaction. (2.) Refinancing will never lead to extending the date of maturity of the original issue of debt.
- M.** Lincoln County will not incur total indebtedness for which the taxpayers are liable that exceeds any of the following guidelines for debt management:
1. Debt per capita ratio will not exceed eight hundred dollars (\$800.00). This ratio is used in evaluating the county's ability to pay off its debt by taking the total principal on all outstanding debt divided by the county's population from the latest U.S. Census Report.
  2. The overall net debt per capita will not exceed four percent (4%) of per capita income. Debt as a percentage of total personal income is a ratio that incorporates an ability to pay concept into the assessment of debt burden. It includes the personal income (from the Bureau of Economic Analysis) divided by the total population of Lincoln County.
  3. Debt to assessed property value (excluding any government owned property) will not exceed seven percent (7%) of the total assessed property value. This ratio examines the county's current indebtedness to the assessed property value. It shows the wealth available to support percent indebtedness, thus determining whether the county has the capacity to meet present and future obligations.

## **ARTICLE XII – ETHICS**

### **Section 12.01. Ethics Committee.**

- A.** The Lincoln County Commission shall nominate persons to serve on the Lincoln County Ethics Committee. Each district commissioner or commissioners shall nominate one (1) person from their district who shall be a Lincoln County citizen, none which shall be a county employee, official, officer, or have a member of the immediate family who is a county employee, official, or officer. The list of nominated persons shall be presented to the Lincoln County Commission at its first meeting at which time the commissioners will vote to select five (5) persons to serve on the Lincoln County Ethics Committee. The Commission will vote by voice vote either "yes" or "no" on confirmation. If five (5) nominees are not elected on the first vote, the nominee receiving the fewest number of votes will be dropped from consideration and a second vote will be cast. This process will continue until the five (5) person committee is confirmed. The five (5) person Lincoln County Ethics Committee shall select officers from within the Lincoln County Ethics Committee. Initially, the chairman and secretary shall serve a six (6) year term; the remainder of the Lincoln County Ethics Committee shall serve a four (4) year term. Thereafter, all members of the Lincoln County Ethics Committee shall serve four (4) year terms. The records of the Lincoln County Ethics Committee shall be maintained by its secretary and shall be filed in the office of the County



Clerk, where they shall be open to public inspection. The members of the Lincoln County Ethics Committee shall be compensated for their individual time at the same rate as members of other Lincoln County committees.

- B.** The Lincoln County Ethics Committee shall have the authority to investigate all allegations, complaints, charter violations, and violations of misconduct, fraud, waste, or abuse by employees, officers, and officials of Lincoln County, to include every department of Lincoln County (schools, water, highway, etc.). All questions, allegations, complaints, and violations of this code of ethics, this charter, or of any state law governing ethical conduct, shall be directed to the chair of the Ethics Committee. Complaints shall be in writing and signed by the person making the complaint, and shall set forth in reasonable detail the facts upon which the complaint is based. The County Ethics Committee shall investigate any credible complaint against any official or employee charging any violation of this Code of Ethics or of this charter or may undertake an investigation on its own initiative when it acquires information indicating a possible violation and make recommendation for action to end or seek retribution for any activity that, in the Committee's judgment, constitutes a violation of this Code of Ethics or of this charter. If a member of the Committee is the subject of a complaint, said member shall recuse himself or herself from all proceedings involving said complaint. Recommendations for disciplinary actions shall be presented to the Lincoln County Commission who shall decide, by majority vote, whether to impose the recommended or other disciplinary action. If violations are severe, the Lincoln County Ethics Committee will contact the District Attorney and state and federal authorities to impose further action in accordance with state and federal law. Allegations, complaints, and violations shall be kept confidential to preserve the good name of the person accused and to protect the person making the complaint from retaliation. No type of retaliation will be tolerated; such action will result in an immediate ethics investigation of the complaint. But if the Lincoln County Commission by majority vote imposes disciplinary action or the District Attorney or state and federal authorities impose further action, the violation will be made public.

**Section 12.02. Discrimination Prohibited.**

- A.** No elected official, administrator, director, or employee of Lincoln County shall discriminate against any person in employment or provision of services based upon race, sex, religion, age, or nationality, without due process of law.
- B.** The Lincoln County Ethics Committee will:
1. Enforce ordinances or resolutions adopted by the Commission pursuant to this Section.
  2. Review practices of the Lincoln County government to insure compliance with this Section 12.02 and all applicable federal and state laws.
  3. Investigate complaints and claims of violations of this Section or of applicable federal or state laws relating to equal employment practices.

4. Report all violations to the Lincoln County Commission and state and federal authorities for further action.

**Sec. 12.03. Conflict of Interest.**

- A. No elected or appointed official or employee of Lincoln County shall advocate, recommend, supervise, manage, or cause the employment, appointment, promotion, transfer, or advancement of his or her relative to an office or position of employment with the Lincoln County government. For the purpose of this policy, relative means parent, step-parent, foster parent, parent-in-law, child, spouse, brother, brother-in-law, foster brother, step-brother, sister, sister-in-law, foster sister, step-sister, grandparent, son-in-law, daughter-in-law, grandchild, or other person or any other person who resides in the same household. A court-appointed legal guardian or an individual who has acted as a parent substitute is also included within this definition.
- B. "Personal Interest" means, for the purpose of disclosure of personal interest in accordance with this policy, a financial interest of the official or employee, or financial interest of the employee's spouse or child living in the same household, in the matter to be voted upon, regulated, supervised, or otherwise act upon in an official capacity.
- C. A conflict of interest exists if a county officer or employee is required to supervise or vote on a contract in which he or she has some kind of investment or concern. Most of the time a conflict of interest involves a financial relationship, but the interest may also be of a supervisory control. A conflict of interests exists if an official in a position is supervising himself or herself. Under general State law a "direct" conflict of interest is prohibited, while an indirect conflict maybe allowed if it is disclosed. The statutory definitions of terms read as follows:
  1. "Directly interested" means any contract with the official personally or with any business in which the official is the sole proprietor, partner, or the person having controlling interest.
  2. "Controlling interest" includes the individual with the ownership or control of the largest number of outstanding shares owned by a single individual, cooperation, or corporation.
  3. "Indirectly interested" means any contract in which the officer is interested but not directly so.....(T.C.A. S 12-4-101)
- D. The general rule is that a direct conflict is prohibited, while an indirect conflict is permitted if it is publicly disclosed; after disclosure the official is not required to abstain from voting on the matter but may do so. The 1998 Public Chapter 774 amending the conflict of interest did not amend T.C.A. S 5-5-102 which continues to specifically state that any member of the county legislative body who abstains for cause on any issue coming to vote before the body

shall not be counted for the purpose of determining a majority vote.

- E.** In some situations, however, officials are held to a more stringent standard of conduct, referred to as the "strict rule." Under this standard both direct and indirect conflicts are prohibited. The first is the County Uniform Highway Law. The second provision is found in the County Financial Management System of 1981, which applies to any county in which it has been adopted and essentially holds all county officials and employees to the strict rule. **Lincoln County adopts the strict rule...**T.C.A. S 5-21-121.
- F.** No officer or employee of Lincoln County, whether elected or appointed, shall in any manner whatsoever have an interest in or receive any benefit from the profits of (or) emoluments of any contract, job, work, or service of Lincoln County. No such officer or employee shall accept any service or item of value, directly or indirectly, any part of any fee, commission, or other compensation paid by or payable to Lincoln County, or by any person in connection with any dealings with Lincoln County, or by any person in connection with or proceedings before any office, officer, department, board, commission, or other agency of Lincoln County. No such officer or employee shall directly or indirectly be the broker or agent who procures or receives any compensation in connection with the procurement of any type of bonds for county officers, employees, or persons or firms doing business with Lincoln County guaranteeing the performance of any contract with Lincoln County. No such officer or employee shall solicit or accept any compensation or gratuity in the form of money or otherwise for any act or omission in the course of the person's public work, provided, however, that the head of any department or board or commission of Lincoln County may permit an employee to receive if publicly offered and paid for the accomplishment of a particular task.
- G.** It shall be unlawful of any member of the Commission, the Executive, other office holder, or any administrative assistant, executive assistant, head of any division of the department of County Government, or any person employed by Lincoln County to vote for, let out, overlook, or in any manner to superintend any work or contract with Lincoln County for the sale of any land, materials, supplies, or services to, or by, Lincoln County, or to a contractor supplying Lincoln County, where such person has a financial interest, direct or indirect, as defined by T. C. A. S 12-4-101, and any subsequent amendment thereto.
- H.** In the event a member of the Commission has a conflict of interest in a matter to be voted upon by the body, he/she must abstain for cause by announcing such to the presiding officer.
- I.** The vote of any member of the Commission having a conflict of interest who does not inform the Commission of such conflict shall be void if challenged by a member of the Commission in a timely manner and ruled a conflict of interest by the Chairman(woman) of the

Commission. As used in this Section, "timely manner" shall mean during the same meeting at which the vote was cast and prior to the transaction of any further business by the body.

- J.** An elected official or employee of Lincoln County with responsibility to vote on a measure shall disclose during the meeting at which the vote takes place, before any discussion or vote on the measure, and so it appears in the minutes, any personal interest that affects or that would lead a reasonable person to infer that it affects the official's vote on the measure. In addition said elected official or employee shall recuse himself/herself from the discussion and/or vote on the matter. This provision shall not be applicable to voting on measures for reappointments of districts or other measures that affect all members of the Lincoln County Commission.
- K.** The provisions of this article shall be broadly construed and strictly enforced for the purpose of preventing officers and employees from securing any pecuniary advantage, however indirect, from their public associations, other than compensation provided by law, this charter, or ordinance.
- L.** The Lincoln County Commission may enact ordinances to guard against injustices and to supplement the provisions and extend prohibitions against conflict of interest not inconsistent herewith. Furthermore, this charter or ordinances passed by the Commission shall not be less stringent than applicable state and federal law.

**Sec. 12.04. Members of Boards, Authorities, Commissions, or Agencies**

- A.** No county officer or employee who is compensated for their service by salary and/or wages shall receive any additional salary for serving as an ex-officio member of a county board, commission, authority, committee, or agency.
- B.** Should any offices, boards, or committees need to be filled by the Lincoln County Legislative body, the vacancy shall be filled according to T. C. A. S 5-5-113 thru T. C. A. S 5-5-116. After official notice of a vacancy, at the first meeting nominees from qualified public citizens of Lincoln County will be accepted first and then nominations from the Lincoln County Commission. A minimum of three (3) will be nominated to fill the vacancy. Each nominated person's resume and conflict of interest forms shall be investigated by the Lincoln County Ethics Committee for conflict of interests and qualifications. Only those nominees deemed to have "no conflict of interest" by the Lincoln County Ethics Commission, after completion of an investigation of all nominees, can be considered to fill the vacancy by the Lincoln County Commission. At the next scheduled meeting of the Lincoln County Commission, the body may vote to fill the vacancy.