

CHARTER OF THE CITY OF MIDDLETON, TENNESSEE¹

Chapter No. 220
 House Bill No. 708
 (By Foster)

AN ACT to incorporate the town of Middleton in Hardeman County, Tennessee, and to define the rights, powers and liabilities of the same, and to repeal all laws or parts of laws in conflict with this Act.

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¹Chapter 220, Private Acts of 1953, as extensively amended by chapter 110, Private Acts of 1961, is the present basic charter of the City of Middleton. As unofficially set out here, all amendments have been incorporated through the 2021 session of the General Assembly. A list of all private acts comprising the charter will be found at the end of the charter as set out here.

No changes have been made in this compilation of the charter except that amendments have been incorporated, one section number has been changed, and a table of contents added to facilitate its use. Also, at the beginning of each article, there is a list of the sections found in that article.

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ARTICLE I

CHARTER, DEFINITIONS, CITY LIMITS, AND CORPORATE POWERS

SECTION

- 1.01. This Act is a charter.
- 1.02. Definitions.
- 1.03. City limits.
- 1.04. Corporate powers.

Section 1.01. This Act is a charter. Be it enacted by the General Assembly of the State of Tennessee, That the town of Middleton in Hardeman County, Tennessee, and the residents thereof are hereby constituted a body politic incorporated under the name and style of "City of Middleton" and by that name shall have perpetual succession, may sue and be sued, plead and be impleaded, in all the courts of law and equity, and in all actions whatsoever, and may have and use a common seal and change it at pleasure. [As amended by ch. 110, pr. acts of 1961, §§ 1 and 2]

Section 1.02. Definitions. Be it further enacted, That as used in this Act the following words and terms shall have the following meanings:

- (a) "City" shall mean the city of Middleton.
- (b) "Alderman" shall mean a person (except the mayor) elected to the Board of Mayor and Aldermen as provided in this Act, and shall include the vice-mayor except when he is acting for the mayor.
- (c) "Board" shall mean the "Board of Mayor and Aldermen," unless the context clearly indicates otherwise. The board of mayor and aldermen shall be composed of the mayor and all aldermen, including the alderman designated as vice-mayor.
- (d) "Non-partisan" shall mean without any designation of candidates as members or candidates of any state or national political party or organization.
- (e) "At large" shall mean the entire city, as distinguished from representation by wards or other districts.
- (f) "Public way" shall mean any land used by the public as a passage way, including but not limited to streets, roads, highways, expressways, freeways, boulevards, avenues, parkways, alleys, lanes, sidewalks, walls, bridges, viaducts, subways, underpasses, tunnels, and other thoroughfares, and including the rights of way of such public ways.
- (g) "Code" shall mean any publication or compilation of rules, regulations, specifications, standards, limitations, or requirements relating to any aspect of municipal affairs, prepared or recommended by an agency of the

Federal or state government, or by a municipality, or by a trade association or other organization generally recognized as an authority in its field of activity.

(h) "Agency" shall mean any office, court, utility, board, commission, institution, or other organization in charge of or administering any public function or municipal affairs of the city of Middleton.

(i) "Officer" shall mean and include the mayor, aldermen, city judge, members of boards and commissions, and any other persons classified as public officers by the laws or judicial decisions of this state. An "officer" as herein defined shall fill an "office," and an "employee" shall fill a "position of employment".

(j) "Elector" shall mean a person residing within the city who is qualified to vote therein.

(k) The masculine shall include the feminine, and the singular shall include the plural and vice versa. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 1.03. City limits.¹ Be it further enacted, That the boundaries of the City of Middleton shall be those fixed by Section 1.03 of Chapter 110 of the Private Acts of 1961, and all other acts amendatory thereto, which amended Chapter 220 of the Private Acts of 1953, and embrace all the territory within the corporate limits of the City of Middleton as of the effective date of this act, and as heretofore established and defined by annexations of the City of Middleton and by law as may hereafter be modified pursuant to general law or ordinances of the City of Middleton. The precise boundaries shall be kept on record by the City Recorder. [As amended by ch. 110, pr. acts of 1961, § 4, and replaced by Priv. Acts 2010, ch. 50, § 1]

Section. 1.04. Corporate powers. Be it further enacted, That the corporate powers of the city, to be exercised by the Board of Mayor and Aldermen, shall include the following:

(a) To levy and to provide for the assessment and collection of taxes on all property subject to taxation, but the tax rate for general purposes, exclusive of debt service, shall not exceed Two Dollars and Fifty Cents (\$2.50) on each One Hundred Dollars (\$100.00) of assessed valuation.

(b) To levy and to provide for the collection of license taxes on privileges, occupations, trades, and professions.

(c) To levy and to provide for the collection of registration fees on automobiles and trucks owned by residents of the city, and also on automobiles and trucks owned by non-residents and operated within the city with any regularity. Such registration fees on trucks or automobiles may be graduated according to their tonnage capacities, weight or horsepower.

¹The boundaries set forth here have been changed by an annexation ordinance dated May 20, 1968, which is of record in the recorder's office.

(d) To appropriate and borrow money to provide for payment of the debts of the city, and to authorize the expenditure of money for any municipal purpose or matter of national or state interest.

(e) To acquire, dispose of, and hold in trust or otherwise any real, personal or mixed property, inside or outside the city.

(f) To condemn property, inside or outside the city, for present or future use, under sections 6-1007 to 6-1011, 6-1401, 6-1402, 6-1410, 6-1505, and 23-1401 to 23-1525, inclusive, of the Tennessee Code Annotated, or under other applicable public acts.

(g) To acquire, operate and dispose of public utilities, subject to the provisions of applicable general laws.

(h) To grant franchises or make contracts for public utilities and public services, not to exceed a period of twenty years. The board of mayor and aldermen may prescribe the rates, fares, charges, regulations, and standards and conditions of service applicable to the service to be provided by the franchise grantee or contractor.

(i) To regulate the rates and services of public utilities in so far as not in conflict with such regulations by the State Public Service Commission or other similar state or Federal agency having jurisdiction in such matters.

(j) To provide for the acquisition, construction, building, operation and maintenance of public ways, parks, public grounds, cemeteries, markets and market houses, public buildings, libraries, sewers, drains, sewage treatment plants, airports, hospital, and charitable, educational, recreational, sport, curative, corrective, detentional, penal and medical institutions, agencies and facilities, and any other public improvements, inside or outside the city, and to regulate the use thereof, and for such purposes property may be taken under sections 6-1007 to 6-1011, 6-1401, 6-1402, 6-1410, 6-1505, and 23-1401 to 23-1525, inclusive, of the Tennessee Code Annotated, or other applicable public acts.

(k) To require real estate owners to repair and maintain in a safe condition the sidewalks adjoining their lots or lands. A real estate owner shall be liable for any injury or damage sustained by reason of a defective sidewalk adjoining his lot or land and the city shall not be liable for any such injury or damage, if a city officer or employee, authorized to do so by the city council, at least ten days prior to occurrence of the injury or damage served him with personal notice or sent a notice by ordinary mail to the owner of record that the sidewalk should be repaired and placed in a safe condition.

(l) To prescribe standards of health and sanitation and to provide for the enforcement of such standards.

(m) To provide for the collection and disposal of garbage, rubbish and refuse. Charges may be imposed to cover the costs of such services which, if unpaid, shall constitute a lien against any property of persons served, which lien shall be second in priority only to liens for county and city property taxes and

shall be enforceable in the same manner and under the same remedies as a lien for city property taxes.

(n) To define, regulate and prohibit any act, practice, conduct, or use of property, detrimental, or likely to be detrimental, to the health, morals, safety, security, peace, convenience, or general welfare of inhabitants of the city.

(o) To establish minimum standards for and to regulate building construction and repair, electrical wiring and equipment, gas installations and equipment, plumbing, and housing, for the health, sanitation, cleanliness and safety of inhabitants of the city, and to provide for the enforcement of such standards.

(p) To regulate and license weights and measures.

(q) To provide that persons given jail sentences in the city court shall work out such sentences on the streets or any public works of the city or in a city workhouse established for this purpose, as provided by ordinance; or the board of mayor and aldermen may provide for the commitment of city prisoners to the county workhouse or jail by agreement with the appropriate county officers.

(r) To regulate and license or prohibit the keeping or running at large of animals and fowls, and to provide for the impoundment of same in violation of any ordinance or lawful order and for their disposition, by gift, sale, or humane killing, when not redeemed as provided by ordinance.

(s) To regulate and license vehicles operated for hire in the city, to limit the number of such vehicles, to require the operators thereof to be licensed, to require public liability insurance on such vehicles in amounts prescribed by ordinance, and to regulate and rent parking spaces in public ways for the use of such vehicles.

(t) To levy and provide for the collection of special assessments for public improvements.

(u) To provide that the violation of any ordinance, rule, regulation or order shall be punishable as a misdemeanor.

(v) To exercise and enjoy all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, morals, and general welfare of the city and its inhabitants, and all implied powers necessary to carry into execution all powers granted in this Act as fully and completely as if such powers were fully enumerated herein. No enumeration of particular powers in this Act shall be held to be exclusive of others nor restrictive of general words and phrases granting powers, but shall be held to be in addition to such powers unless expressly prohibited to cities under the constitution or applicable public acts of the state.

(w)¹ The Board of Mayor and Aldermen shall also have power by ordinance to provide fire-fighting services to property outside the corporate limits of the City on such terms and conditions as in the discretion of the Board of Mayor and Aldermen will be reasonable, and equitable and just to the owners of property and taxpayers in the City. In furnishing such services the City shall be considered in all respects as acting in its governmental capacity, and all officers, employees and agents of the City shall be entitled to all rights, privileges, exemptions and immunities as though such services were being performed within the corporate limits of the City. [As amended by ch. 110, pr. acts of 1961, § 4, and ch. 210, pr. acts of 1963, § 1]

¹The provisions of unofficial subsection (w) were taken from chapter 210, private acts of 1963. That private act was written as amending § 9 of chapter 220, private acts of 1953. That section had been repealed by chapter 110, pr. acts of 1961. These provisions have been added here.

ARTICLE II

BOARD OF MAYOR AND ALDERMEN

SECTION

- 2.01. Election of board of mayor and aldermen.
- 2.02. Restrictions on candidates and their supporters.
- 2.03. Board of mayor and aldermen.
- 2.04. Mayor as presiding officer.
- 2.05. Vice-mayor.
- 2.06. Vacancy in office of alderman.
- 2.07. Restrictions on aldermen.
- 2.08. City recorder and treasurer.
- 2.09. Official newspaper.
- 2.10. City legislation.
- 2.11. Maintenance of code of ordinances.
- 2.12. Rules and regulations.

Section 2.01. Election of board of mayor and aldermen. Be it further enacted, That on the first Tuesday after the first Monday in November 2012, a non-partisan election shall be conducted by the county election commissioners, at the same hours and places for holding general elections and under the general election laws of the state, to elect a mayor and five (5) alderpersons from the city at large. Thereafter, a non-partisan election shall be held on the first Tuesday after the first Monday in November every four (4) years concurrent with the state's regular November election to elect a mayor and alderpersons. The incumbent mayor and alderperson whose terms expire in February of 2011 shall have their terms extended to the first Monday of December following the November 2012 election, or until their successors have been elected and qualified. Any elector who is a resident and legally qualified voter of the City of Middleton may become a candidate by submitting to the county election commissioners, by twelve o'clock (12:00) noon, prevailing time, on the third Thursday in the third calendar month before the election, a petition nominating him or her and signed by at least twenty-five (25) electors. If an elector signs more petitions than the number of mayor and alderpersons to be elected, in the first or any succeeding election, the elector's signature shall be invalid on the petitions last filed. All persons who are qualified to vote under the general election laws of the state and who reside in the City of Middleton shall be entitled to vote in any municipal election. Provided, however, that any person who owns real property in the corporate limits of the City of Middleton but resides outside of the corporate limits and is otherwise a qualified voter in the state is entitled to vote in any municipal election.

The terms of office of mayor and alderpersons shall be for four (4) years and shall begin at 12:01 p.m. on the first Monday of December next following their election, and the mayor and alderpersons shall serve until their successors have been elected and qualified. No informality shall invalidate such an election; provided, that it is conducted fairly and in substantial conformity with the requirements of this act. [As amended by ch. 110, pr. acts of 1961, § 4, and replaced by Priv. Acts 2010, ch. 50, § 2]

Section 2.02. Restrictions on candidates and their supporters. Be it further enacted, That if a candidate or any person on his behalf directly or indirectly gives or promises to any person or persons any office, employment, money, benefit, or anything of value in connection with his candidacy, upon conviction thereof he shall be punished by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not to exceed one year, or by both such fine and imprisonment, and shall thereafter be ineligible to hold any office or position of employment in the city government for a period of five years. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.03. Board of mayor and aldermen. Be it further enacted, That the mayor and five aldermen shall compose the board of mayor and aldermen, in which is vested all corporate, legislative and other powers of the city, except as otherwise provided in this Act. The board shall be the final judge of the election and qualifications of its members. All members of the board shall serve without salary, but they may be reimbursed for actual and necessary expenses incurred in the conduct of their official duties. The board shall hold regular public meetings at a stated time and place, as provided by ordinance, and shall meet in special session on written call of the mayor or any two aldermen served on the mayor and the other aldermen personally or left at their residences at least twelve hours in advance of the meeting, but such notice of a special meeting shall not be required if the mayor and all aldermen attend the meeting. Only the business stated in the written call may be transacted at a special meeting, except by unanimous consent of all aldermen elected and holding office. The board of mayor and aldermen shall exercise its powers only in public meetings. A majority of the aldermen shall constitute a quorum. The board may by ordinance adopt rules and by-laws to govern the conduct of its business, including procedures and penalties for compelling the attendance of absent members. The board may subpoena and examine witnesses, order the production of books and papers, and shall have the same powers as a circuit court to punish for refusal to obey such an order or subpoena or for disorderly or contemptuous behavior in the presence of the board. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.04. Mayor as presiding officer. Be it further enacted, That the mayor shall preside at meetings of the board, shall vote only to break a tie, shall be the ceremonial head of the city, shall sign ordinances and resolutions on their final passage, shall sign deeds, bonds and contracts when authorized by the board to do so, shall be the officer to accept process against the city, and shall perform other duties imposed by this Act and ordinances not inconsistent with this Act. The mayor shall have the power to veto any ordinance or resolution, but such a veto may be over-ridden by a vote of four or more aldermen. The vice-mayor shall perform the duties of the mayor during his absence or inability to act, and shall fill out any unexpired term in the office of mayor, in which case a new vice-mayor shall be elected by majority vote of the board. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.05. Vice-mayor. Be it further enacted, That the board at the first regular meeting after the newly elected mayor and aldermen have taken office following each biennial election, shall elect from its membership a vice-mayor for a term of two years. In the event that no decision is reached at such first regular meeting, the board shall, within five ballots to be taken within ten days following such meeting, elect the vice-mayor, or the alderman who received the highest number of votes when he was elected shall become vice-mayor. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.06. Vacancy in office of alderman. Be it further enacted, That a vacancy shall exist if the mayor or alderman resigns, dies, moves his residence from the city, has been continuously disabled for a period of six months so as to prevent him from discharging the duties of his office, accepts any full-time Federal, state, county or other municipal office or position of employment, except as a notary public or member of the National Guard or other reserve component of the U. S. Armed Forces, or is convicted of malfeasance or misfeasance in office, a felony, a violation of this Act, or a violation of the election laws of the state. In the case of a vacancy in the office of alderman, the board of mayor and aldermen shall appoint a qualified person to fill the vacancy for the remainder of the unexpired term. If a tie vote by the board to fill the vacancy in the office of alderman is unbroken for fifteen days, the mayor shall appoint a qualified person to fill the vacancy. At no time shall there be more than two aldermen so appointed holding office, and if a vacancy occurs with two aldermen so appointed on the council a special election shall be held by the county election commissioners on the eighth Saturday following occurrence of the vacancy, at which election an alderman shall be elected to serve the remainder of the unexpired term of the vacant office; provided that no such election shall be held if a regular biennial election will occur within six months. Candidates in such a special election shall be nominated by petitions as provided in Section 2.01. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.07. Restrictions on aldermen. Be it further enacted, That the board shall act in all matters as a body, and no member shall seek individually to influence the official acts of the mayor or any other officer or employee of the city, or to direct or request the appointment of any person to, or his removal from, any office or position of employment, or to interfere in any way with the performance of duties by the mayor or any other officer or employee. The board shall deal with the various agencies, officers and employees of the city, except boards or commissions authorized by this Act, solely through the mayor, and shall not give orders to any subordinates of the mayor, either publicly or privately. Nothing herein contained shall prevent the board from conducting such inquiries into the operation of the city government and the conduct of the city's affairs as it may deem necessary. The office of any alderman violating any provisions of this section shall immediately become vacant upon his conviction in a court of competent jurisdiction. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.08. City recorder and treasurer. Be it further enacted, That the board shall appoint a city recorder who shall be responsible for keeping and preserving the city seal and all records of the board; attending meetings of the board and keeping a journal of its proceedings at such meetings, including the names of members present and absent, the vote of each member on each question, each motion considered, and the title of each resolution or ordinance considered; preparing the certifying copies of official records in his office, for which fees may be prescribed by ordinance; issuing licenses; collecting real, personal and privilege taxes; keeping accurate records of the accounts of the city; and performing such other duties as may be required by the board. The city recorder shall be paid such compensation as the board shall determine.

The board shall appoint a treasurer who shall be responsible for the deposit into the treasury and the withdrawal of all funds; for the payment, by check, of all obligations of the city; for preparing at the end of each fiscal year a public report of all receipts and disbursements; and performing such other duties as may be required by the board. The treasurer shall be paid such compensation as the board shall determine.

In the discretion of the board, the duties of the city recorder and treasurer may be combined and assigned to one person. An alderman may be appointed city recorder, treasurer, or to the combined position of city recorder-treasurer. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.09. Official newspaper. Be if further enacted, That the board by resolution shall designate a newspaper of general circulation in the city as the official city newspaper. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.10. City legislation. Be it further enacted, That any action of the board having a regulatory or penal effect, relating to revenue or the expenditure of money, or required to be done by ordinance under this Act, shall be done only by ordinance. Other actions may be accomplished by resolution or motions. Each resolution and ordinance shall be in written form before being introduced. The affirmative vote of at least three members of the council shall be required to pass any motion, resolution or ordinance, including both readings in the case of an ordinance. Each ordinance, before being adopted, shall be read at two meetings not less than one week apart, and shall take effect ten days after its adoption, except that, where an emergency exists and the public safety and welfare requires it, an ordinance containing a full statement of the facts and reasons for the emergency may be made effective upon its adoption if approved by at least four members of the board on two readings on successive days. No ordinance relating to a franchise, exclusive contract, or other special privilege shall be passed as an emergency ordinance. Amendments of ordinances and resolutions or parts thereof shall be accomplished only by setting forth the complete section, sections, subsections in their amended form. A code may be adopted by an ordinance which contains only a reference to its title, date and issuing organization, and the city recorder shall file a copy of the code in his office. The city shall furnish a copy of any such code to any person for a reasonable fee. The original copies of all ordinances and resolutions shall be filed and preserved by the city recorder. An abstract of the essential provisions of each ordinance shall be published once in the official city newspaper within ten days after its adoption, except that only the title shall be so published of a code adopted by reference as provided in this section. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.11. Maintenance of code of ordinances. Be it further enacted, That each new ordinance shall be adopted as a numbered section or sections of the city code of ordinances, as amending existing sections or adding new sections. Such new ordinances shall be integrated into the code, and at least twice a year new pages shall be reproduced to replace existing pages (with instructions to destroy existing pages) or to be added to the code, and shall be distributed to city officers and employees having copies of the code and to other persons who have paid an annual fee for current revisions. Notes shall be inserted at the end of amended or new sections, referring to the dates and numbers of ordinances making the amendments or adding the new sections, and such references shall be cumulative if a section is amended more than once in order that the current copy of the code will contain references to all ordinances passed since the adoption of the original code. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 2.12. Rules and regulations. Be it further enacted, That the board may by ordinance authorize officers and agencies of the city to promulgate formal rules and regulations within their respective jurisdictions, subject to such restrictions and standards of guidance as the council may prescribe. No such formal rule or regulation shall take effect until it is filed with the city recorder who shall file and preserve the original copy in his office. Such rules and regulations shall be included as a separate section of the Official Code and shall be reproduced and distributed in loose-leaf form. Amendments of such rules and regulations shall be accomplished only by setting forth complete sections or subsections in their amended form. [As amended by ch. 110, pr. acts of 1961, § 4]

ARTICLE III

ORGANIZATION AND PERSONNEL

SECTION

- 3.01. Organization.
- 3.02. Administrative duties of mayor.
- 3.03. City attorney.
- 3.04. City court.
- 3.05. City judge and city court clerk.
- 3.06. Other officers and employees.
- 3.07. Appointment, suspension, and removal of employees.
- 3.08. Oath of office.
- 3.09. Official bonds.
- 3.10. Political activity prohibited
- 3.11. Officers and employees not to profit from connections with city.

Section 3.01. Organization. Be it further enacted, That the city government shall be organized as the board deems best. The board by ordinance may establish, abolish, merge, or consolidate offices, positions of employment, departments, and agencies of the city, may provide that the same person shall fill any number of offices and positions of employment, and may transfer or change the functions and duties of offices, positions of employment, departments, and agencies of the city, subject to the following exceptions: (a) the number of members and authority of the board, as provided in this Act, shall not be changed, (b) all officers and employees of the city, except as otherwise specifically provided in this Act, shall be appointed and removed by and shall be under the direction and control of the board, and (c) the office of mayor shall not be abolished, nor shall his powers, as provided in this act, be reduced. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.02. Administrative duties of mayor. Be it further enacted, That the mayor shall be the executive head of the city government, responsible for the efficient and orderly administration of the city's affairs. He shall be responsible for the enforcement of laws, rules and regulations, ordinances and franchises in the city, and the city attorney shall take such legal actions as the mayor may direct for such purposes. He shall submit to the board annual budgets, reports, and such other information as he may deem necessary or the board may require. He shall have authority to make allotments of funds within the limits of appropriations and no expenditure shall be made without his approval. If no other employee is designated as purchasing agent he shall act as purchasing agent for the city. He shall serve as city judge unless he declines to serve in writing, and may receive a salary and/or fees therefor. He may conduct

inquiries and investigations into the conduct of the city's affairs and shall have such other powers and duties as may be provided by ordinances not inconsistent with this Act. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.03. City attorney. Be it further enacted, That the board shall appoint a city attorney. The city attorney shall be responsible for representing and defending the city in all litigation in which the city is a party, shall advise the board, mayor and other officers and employees of the city concerning legal aspects of the city's affairs, shall approve as to form and legality all contracts, deeds, bonds, ordinances, resolutions, motions, and other officials documents, and shall perform such other duties as may be prescribed by the board or mayor. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.04. City court. Be it further enacted, That a city court, presided over by a city judge, on a full-time, part-time or fee basis as may be prescribed by ordinance, is hereby established, which shall have jurisdiction over violations of this Act and ordinances of the city. The city court shall also have concurrent jurisdiction with that of a General Sessions Court or a justice of the peace over offenses against the criminal laws of state committed within the city. The city judge shall have authority to impose fines, costs, forfeitures, and imprisonment in a jail or workhouse, as provided in this Act by ordinance, and except as provided in this Act and by ordinance, and except as provided in this act his authority and powers and the procedure in the city court shall be the same as provided by state law for a justice of the peace. Appeals from the city court shall be to the circuit court. Warrants, subpoenas and other processes of the city court shall be executed by police officers of the city, who for such purposes shall have the same powers and authority of a Sheriff in executing process of a circuit court. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.05. City judge and city court clerk. Be it further enacted, That the mayor shall serve as city judge and shall be entitled to receive such salary and/or fees as the board may establish by ordinance. The judge may waive his fee, but shall record such waiver in the official court records. Should the mayor decline, in writing, to serve as city judge, the board shall appoint another person (who may be an alderman or the city recorder) as city judge for a term not to exceed two years, shall fix his salary and/or fees and such salary and/or fees shall not be changed during said term of office. The board may impeach and remove the city judge for neglect or refusal to enforce the laws of the state and ordinances of the city, or for other misconduct in office or neglect of duty, but any person so removed may appeal to the circuit court and thence to the Supreme Court of the state. The board shall fill a vacancy in this office by appointment for the unexpired term. The city judge shall recuse himself from a case in which (a) he is interested, (b) he is related to the defendant by blood

or marriage within the third degree, or (c) for any reason he believes that he will be prejudiced, and such a case, as well as cases during the absence or disability of the city judge, shall be heard and decided by an acting city judge appointed by the board. The board may remove the acting city judge at any time without cause. The compensation of an acting city judge shall be fixed by ordinance. The board may authorize a city court clerk and other personnel, to assist and to be appointed and removed by the city judge, to perform such duties as may be prescribed by ordinance or by the city judge. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.06. Other officers and employees. Be it further enacted, That the board by ordinance may establish offices and positions of employment and may abolish, combine or modify them. The powers and duties of such offices and positions of employment may be defined by ordinance, and if not defined by ordinance shall be defined in formal rules and regulations issued by the mayor, as provided in section 2.12 of this Act, but in any event the mayor may require officers and employees of the city, except those appointed by and accountable to the board, to perform such additional duties as may be considered necessary by him for the proper and efficient conduct of the city's affairs. Public utilities owned or operated by the city may be under the supervision of the mayor and employees appointed by him or may be under boards or commissions appointed by and answerable to the board, as provided by ordinance. The salaries of all officers and employees of the city shall be fixed by ordinance under a pay plan applying uniformly to all officers and employees having similar responsibilities and doing like work. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.07. Appointment, suspension, and removal of employees. Be it further enacted, That all employees of the city, except as otherwise provided in this Act, shall be appointed, promoted, transferred suspended and removed by the board. During a suspension, an employee's salary may be reduced or eliminated, as determined by the board. Before suspending for more than thirty days or removing an employee, the board shall serve the employee with a written notice of intention to suspend or remove him, containing a statement of the grounds for such proposed action and notification that the employee may appeal to the board by filing, within ten days, with the city recorder written notice of his intention to do so. The decisions of the board in cases of such appeals by employees shall be final. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.08. Oath of office. Be it further enacted, That before the mayor, an alderman or any other person takes any office in the city government, he shall take, subscribe to and file with the city recorder the following oath or affirmation:

"I solemnly swear (or affirm) that I will support the constitution and will obey the laws of the United States and of the State of Tennessee, that I will, in all respects, observe the provisions of the charter and ordinances of the city of Middleton, and that I will faithfully discharge the duties of the office of _____."

[As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.09. Official bonds. Be it further enacted, That the mayor and every officer, agent and employee of the city having duties embracing the receipt, disbursement, custody, or handling of money, and other officers and employees as may be required by ordinance, shall give a fidelity bond or faithful performance bond, as provided by ordinance, with some surety company authorized to do business in the State of Tennessee as surety, in such amount as shall be prescribed by ordinance. All such bonds and sureties thereto shall be subject to approval by the council. The cost of such bonds shall be paid by the city. All such bonds shall be kept in the custody of the city recorder, except that the city recorder's bond shall be in the custody of the mayor. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.10. Political activity prohibited. Be it further enacted, That no officer or employee of the city, other than mayor or aldermen, shall continue in the employment of the city after becoming a candidate for nomination or election to any public office. No person shall directly or indirectly give, render or pay any money, service or other valuable consideration to any person for or on account of or in connection with any test, appointment, proposed promotion, to any office or position of the city government. Any person who by himself or with others willfully or corruptly violates any provision of this section shall be guilty of a misdemeanor and shall upon conviction thereof be punished by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not more than one year, or by both such fine and imprisonment. Any person who is convicted under this section shall be ineligible to hold any office or position of employment in the city government for a period of five years thereafter, and if he be an officer or employee at the time of conviction he shall immediately forfeit and vacate the office or position he holds. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 3.11. Officers and employees not to profit from connections with city. Be it further enacted, That, except with board approval, expressed by resolution or recorded motion, no officer or employee of the city shall profit personally, directly or indirectly, from any contract, purchase, sale or service, between the city government and any person or company. No officer or employee shall accept any free or preferred service, benefits or concessions from any person or company, except that free transportation may be provided to

policemen and firemen on official duty. [As amended by ch. 110, pr. acts of 1961,
§ 4]

ARTICLE IV

FISCAL ADMINISTRATION

SECTION

- 4.01. Fiscal year.
- 4.02. Mayor to submit annual budget.
- 4.03. Public hearing.
- 4.04. Action by board on budget.
- 4.05. Allotments.
- 4.06. Purchasing.
- 4.07. Sale of city property.
- 4.08. Annual audit.
- 4.09. Property taxes.
- 4.10. Tax levy.
- 4.11. Tax due dates and tax bills.
- 4.12. Collection of delinquent taxes.
- 4.13. Special assessments.
- 4.14. Disbursements by checks.
- 4.15. Official depository.

Section 4.01. Fiscal year. Be it further enacted, That the fiscal year of the city government shall begin on the first day of July and shall end on the thirtieth day of June of the succeeding year, but another fiscal year may be fixed by ordinance for the entire city government or for any utility. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.02. Mayor to submit annual budget. Be it further enacted, That on or before a date fixed by the council but not later than thirty days prior to the beginning of each fiscal year, the mayor shall submit to the board a proposed budget for the next fiscal year, showing separately for the general fund, each utility, and each other fund the following: (a) revenue and expenditures during the preceding fiscal year, (b) appropriations, and estimated revenue and expenditures for the current fiscal year, (c) estimated revenue and recommended expenditures for the next fiscal year, (d) such other information and data, such as work programs and unit costs, in justification of recommended expenditures, as may be considered necessary by the mayor or requested by the board. The mayor may recommend and estimate additional revenue measures, providing such estimates are separated clearly from normal revenue estimates. The budget shall be accompanied by a message from the mayor containing a statement of the general fiscal policies of the city, the important features of the budget, explanations of major changes recommended for the next fiscal year as compared with the current fiscal year, a general summary of the budget and

such other comments and information as he may deem pertinent. A sufficient number of copies of the mayor's message shall be reproduced to furnish a copy to any person desiring one, and a copy of the budget in full shall be filed with the board and furnished to each member of the board. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.03. Public hearing. Be it further enacted, That after receiving the budget from the mayor, the board shall fix a time and place for a public hearing thereon and shall cause a public notice thereof to be published once in the official city newspaper at least ten days in advance of the date of the hearing. The public hearing shall be held before the board at the stated time and place, and all persons present shall be given an opportunity to be heard. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.04. Action by board on budget. Be it further enacted, That after the public hearing and before the beginning of the ensuing fiscal year the board shall adopt an appropriation ordinance, based on the mayor's budget with such modifications as the board considers necessary or desirable. Appropriations need not be in more detail than a lump sum for each department and agency. The board shall not make any appropriations in excess of estimated revenue, except to provide for an actual emergency threatening the health, property or lives of the inhabitants of the city and declared by unanimous vote of all members of the board. If emergency conditions prevent the adoption of an appropriation ordinance before the beginning of the new fiscal year, the appropriations for the last fiscal year shall become the appropriation for the new fiscal year, subject to amendment as provided in this section. Amendments may be made to the original appropriation ordinance at any time during a current fiscal year after a public hearing before the council on five days notice published once in the official city newspaper, provided that increased appropriations may be made only after the mayor has certified in writing that a sufficient amount of unappropriated revenue will be available, except for emergency appropriations as provided above. Any portion of an annual appropriation remaining unexpended and unencumbered at the close of a fiscal year shall lapse and be credited to the general fund, except that any balance remaining in any other fund at the end of a fiscal year may remain to the credit of that fund and be subject to further appropriation.

The mayor shall submit periodic detailed budget reports to the board, showing estimated and actual receipts and expenditures or encumbrances for that period and the fiscal year to the end of that period, as well as the amount encumbered or expended in excess of any of the itemized estimates of expenditures supporting the appropriations. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.05. Allotments. Be it further enacted, That the board shall make periodic allotments of appropriated funds, and no contracts or purchases, except those made by the board, may be made in excess of the amount allotted by the board for any allotment period. In no event may contracts or purchases be made in excess of appropriations. Any expenditures except for salaries and wages may be reduced or eliminated through such allotment control. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.06. Purchasing. Be it further enacted, That all contracts and purchases, except those that may be specifically delegated to others by ordinance, shall be made by the board. Any expenditure or contract for more than five hundred dollars (\$500.00) shall be made only after publication, advertisement and competition by sealed bids, as prescribed by ordinance and an award shall be made for the bid most advantageous to the city; provided that any or all bids may be rejected, and provided further that bids need not be required for professional services or for services for which the rates or prices are regulated by public authority. Competition by bids shall not be required for the purchase of equipment, materials or supplies from any other governmental agency. [As amended by ch. 110, pr. acts of 1961, § 4]

4.07. Sale of city property. Be it further enacted, That the board may sell any city property which is obsolete, surplus or unusable, if the proceeds do not exceed five hundred dollars (\$500.00) without taking bids, but sealed bids shall be taken or a public auction shall be held for any sale producing more than five hundred dollars (\$500.00). [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.08. Annual audit. Be it further enacted, That the board shall employ a certified public accountant to make an annual audit of all financial books and records of the city. The accountant shall file his report with the board, at a time agreed to between him and the board, and shall prepare a summary of the report which shall be published once in the official city newspaper. A copy of the complete audit report shall be kept on file with the city recorder for examination by the public during regular office hours. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.09. Property taxes. Be it further enacted, That all property subject to taxation, assessed as of January 10 in each year, shall be subject to the property tax levied by the city. The board by ordinance may elect to use the county assessment or may provide for an independent city assessment by a city assessor appointed by the board. If an independent city assessment is made, a board of equalization, consisting of three persons appointed by the board of mayor and aldermen, with compensation fixed by ordinance, shall hear appeals of taxpayers taken within ten days after the city assessor has sent a notice by

ordinary mail of a new or increased assessment; provided that such notice shall not be required nor may appeals be taken in the case of initial city assessments that are the same as county assessments. Except as otherwise provided in this section, appeals involving city property assessments may be taken as provided by general law. The board of equalization may increase or decrease the assessment of all property of the same class by a uniform percentage, in which case individual notices shall not be mailed but a notice of such action shall be published once in the official city newspaper; such a blanket increase or decrease shall not be subject to appeal. The board of equalization shall also be vested with authority to increase or decrease individual assessments on its own initiative, after proper notice to taxpayers concerned. The authority and duties of such city assessing personnel shall be the same as those provided by general law for county assessing personnel. The city assessor shall meet with and assist the board of equalization. The board of equalization, upon completion of its work, shall submit a written report to the board, including total increases and decreases made by it and the final total assessment of each class of property. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.10. Tax levy. Be it further enacted, That the board shall make a tax levy, expressed as a fixed rate per one hundred dollars (\$100.00) of assessed valuation, subject to the limitations in section 1.04 (a), above, and if no tax levy is made within ninety days prior to the tax due date, or within ninety days prior to the due date of a second installment if two installments are authorized by ordinance, the property tax rate in effect the last fiscal year shall continue in effect as the tax rate for the new fiscal year. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.11. Tax due dates and tax bills. Be it further enacted, That the due dates of property taxes shall be fixed by ordinance and provision may be made for equal semi-annual installments. The city shall send tax bills to taxpayers, showing the assessed valuations, amounts of taxes due, tax due dates, and information as to delinquency dates and penalties. Failure to send such tax bills shall not, however, invalidate any tax. Property taxes shall become delinquent thirty days after a due date, at which time a penalty of five per cent (5%) shall be added and thereafter such taxes shall be subject to interest at the rate of one-half of one percent (of 1%) for each month or fraction thereof until paid. On and after the date when such taxes become delinquent, the tax records of the city shall have the force and effect of a judgment of a court of record. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.12. Collection of delinquent taxes. Be it further enacted, That the board may provide by ordinance for the collection of delinquent taxes by distress warrants issued by the mayor for the sale of goods and chattels to be

executed by any police officer of the city under the laws governing execution of such process from a justice of the peace, or by the county trustee as provided by general law, or by the city attorney acting in accordance with general laws providing for the collection of delinquent city and/or county taxes, or by any two or more of the foregoing methods, and by the use of any available legal processes and remedies. A lien shall exist against all property on which city property taxes are levied, as of the assessment date of January 10 of each year, which shall be superior to all other liens except that it shall have equal dignity with those for Federal, state or county taxes. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.13. Special assessments. Be it further enacted, That the city may assess all or part of the cost of constructing, reconstructing, widening, or improving any public way, sewers, or other utility mains and appurtenances, against the abutting property owners, under such terms and conditions as may be prescribed by ordinance. Such special assessments shall become delinquent thirty days after their due dates (after the due date of each installment if paid on an installment basis), shall thereupon be subject to a penalty of five per cent (5%), and shall thereafter be subject to interest at the rate of one-half of one per cent (of 1%) for each month or fraction thereof until paid. A lien shall exist against the abutting property superior to all other liens, except that it shall be of equal dignity with liens for county and city property taxes, and said lien shall be enforceable by the same procedures and under the same remedies as provided in this article for city property taxes. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.14. Disbursements by checks. Be it further enacted, That all disbursements shall be made by checks signed by the treasurer and countersigned by the mayor. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 4.15. Official depository. Be it further enacted, That the board shall designate an official depository or depositories for deposit and safekeeping of the funds of the city, and may require such collateral security as it deems necessary. [As amended by ch. 110, pr. acts of 1961, § 4]

ARTICLE V

MISCELLANEOUS

SECTION

- 5.01. Restrictions on actions for damages against the city.
- 5.02. General laws may be used.
- 5.03. Penalties.
- 5.04. Repeal of laws in conflict.
- 5.05. Severability.
- 5.06. Effective date.
- 5.07. Term of office of officials elected in February, 1961.

Section 5.01. Restrictions on actions for damages against the city. Be it further enacted, That no action shall be maintained against the city for damages unless a written statement by the claimant or by his agent, attorney or representative, setting forth the basis for his claim, shall have been filed with the mayor within sixty days after such cause of action shall have occurred, except that when the claimant is an infant or non compos mentis, or an injured person dies within such sixty days, the time limit for filing a claim shall be one hundred and twenty days. No officer or employee of the city may waive this requirement. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 5.02. General laws may be used. Be it further enacted, That the board in its discretion may elect to use the provisions of any general laws of the state in addition to or instead of the provisions of this Act. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 5.03. Penalties. Be it further enacted, That the violation of any provision of this Act, for which a penalty is not specifically provided herein, is hereby declared to be a misdemeanor and shall be punished by a fine of not more than fifty dollars (\$50.00), or by imprisonment for not to exceed one year, or by both such fine and imprisonment. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 5.04. Repeal of laws in conflict. Be it further enacted, That Chapter 359 of the Private Acts of 1901, Chapter 449 of the Private Acts of 1907, Chapter 123 of the Private Acts of 1917, Chapter 169 of the Private Acts of 1953, and all other laws and parts of laws in conflict with this Act be and the same are hereby repealed. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 5.05. Severability. Be it further enacted, That the provisions of this Act are hereby declared to be severable. If any of its sections, provisions, exceptions, sentences, clauses, phrases or parts be held unconstitutional or void,

the remainder of this Act shall continue in full force and effect, it being herein declared to be the legislative intent that this Act would have been adopted even if such unconstitutional, void, or invalid matter had not been included therein. [As amended by ch. 110, pr. acts of 1961, § 3]

Section 5.06. Effective date. Be it further enacted, That this Act shall be effective on and after March 15, 1961, the public welfare requiring it. [As amended by ch. 110, pr. acts of 1961, § 4]

Section 5.07.¹ Term of office of officials elected in February, 1961. Be it further enacted, That the term of office of the mayor and aldermen elected at the regular municipal election on the first Thursday after the first Monday in February, 1961 shall terminate on March 1, 1963, just as if said officials had been elected under this Act. [As amended by ch. 110, pr. acts of 1961, § 5]

Passed: March 26, 1953.

James L. Bomar,
Speaker of the House of Representatives.

Jared Maddux,
Speaker of the Senate.

Approved: March 27, 1953.

Frank G. Clement,
Governor.

¹Unofficial section 5.07 was section 5 in chapter 110, private acts of 1961. The compiler thought it best to include it here as section 5.07.

PRIVATE ACTS COMPRISING THE CHARTER
OF THE CITY OF MIDDLETON

<u>YEAR</u>	<u>CHAPTER</u>	<u>SUBJECT</u>
1953	220	Basic Charter act.
1961	110	Extensively amends basic charter act.
1963	210	Extra-territorial fire fighting.
2010	50	Replace § 1.03 relative to city limits. Replace § 2.01 relative to election of mayor and alderpersons.