

**ORDINANCE TO ADD ARTICLE V OF CHAPTER 3 TO THE MIDDLEBURG TOWN CODE
PERTAINING TO THE ACCEPTANCE OF GIFTS & DONATIONS**

MOTION: Councilmember Miller

SECOND: Councilmember Leonard-Morgan

WHEREAS, from time to time, citizens, vendors or organizations that assist or do business with the Town of Middleburg make a gift of real or personal property or services to the Town government, elected or appointed members of the Town government and/or the Town staff and employees; and,

WHEREAS, while the receipt of such gifts is greatly appreciated, the perception of government transactions is important to the Mayor and Members of the Middleburg Town Council as they believe the citizens and businesses deserve a fair, ethical and accountable local government; and,

WHEREAS, the Mayor and Town Council believe that public office should not be used for personal gain; and,

WHEREAS, these objectives require Middleburg's officials and employees be independent, impartial and fair in their judgments and actions; and,

WHEREAS, the Town Council believes that establishing policies regarding the acceptance of gifts and/or donations to the Town government, elected and appointed officials and the staff/employees is a part of good governance;

NOW THEREFORE BE IT ORDAINED by the Town Council of the Town of Middleburg, Virginia that Article V of Chapter 3 of the Middleburg Town Code is hereby adopted as set forth below.

ARTICLE V
GIFTS & DONATIONS

SECTION 3-10 Solicitation of Gifts

No elected official; appointed official and/or member of a Town sanctioned board, commission or committee; or employee of the Town, appointed or otherwise, hereinafter referred to as "official", shall solicit a gift for him/herself or a member of his/her immediate family from any person, business or organization due to his/her position with the Town of Middleburg.

SECTION 3-11 Limitation on the Acceptance of Gifts by Town Officials and Employees

No official shall accept or receive any single gift with a value in excess of one hundred dollars (\$100) or any combination of gifts with an aggregate value in excess of one hundred dollars (\$100) within any calendar year for him/herself or a member of his/her immediate family from any person, business or organization due to his/her position with the Town of Middleburg.

SECTION 3-12 Exceptions.

Section 3-11 shall not apply in the following cases:

- (A) If a gift was provided to an official on the basis of a personal friendship. In determining whether a person is a personal friend, the following factors shall be considered: (i) the circumstances

under which the gift was offered; (ii) the history of the relationship between the person and the donor, including the nature and length of the friendship and any previous exchange of gifts between them; and, (iii) to the extent known to the person, whether the donor personally paid for the gift or sought a tax deduction or business reimbursement as a gift;

- (B) To the receipt of food, refreshments and entertainment valued at less than one hundred dollars (\$100) at a widely attended event that is open to the public and where the invitation is from someone who is not a prohibited source as identified in the Virginia Conflict of Interests Act;
- (C) Voluntary gifts among individuals for annual occasions, such as birthdays and holidays, and on special occasions, such as marriage or the birth of a child. An employee may solicit voluntary contributions of a nominal amount from fellow employees to contribute to a gift;
- (D) Items such as food and refreshments to be shared in the office;
- (E) Items, other than cash, valued at ten dollars or less;
- (F) Personal hospitality provided at a residence which is of a type and value customarily provided by the individual to personal friends;
- (G) Discounts and similar benefits offered to a broad class, including a broad class of government employees;
- (H) Free attendance, food, refreshments and materials provided at a conference, widely attended gathering or social event which an individual attends in his official capacity with the approval of the Town Administrator or designee, with approval only being required for individuals other than the Mayor and members of the Town Council; and,
- (I) Participation in a conference in his/her official capacity as an organizer, speaker, panel member or upon the determination that the individual's attendance is in the interest of the Town, for which the individual receives free attendance, travel, lodging and/or meals.

SECTION 3-13 ACCEPTANCE OF DONATIONS TO THE TOWN OF MIDDLEBURG

- A. The Town Council must approve the acceptance of all donations, either in the form of cash, real or personal property and/or services, to the Town by a majority vote of the Council in advance of their acceptance. If associated with a Town sponsored activity or event, upon approval of the Council for the acceptance of donations for that activity or event, the details of the donations need only be approved in advance by the Town Administrator and/or designee.
- B. Cash donations not earmarked for a specific approved Town activity or event, or one identified by the adopted Capital Improvement Program, shall be deposited into the General Fund and such funds shall be spent according to the needs of the Town as determined by the Town Council.
- C. The Town shall not place a monetary value on any non-cash donated items, including those that may be eligible as a charitable contribution as identified by the U. S. Internal Revenue Service.
- D. In order to assure complete transparency, the details of all donations to the Town of Middleburg shall be public information. The Town Administrator or designee shall acknowledge the donation in writing upon its acceptance and receipt.

Adopted October 11, 2018.

Vote: Aye: Councilmembers Kirk, Daly, Leonard-Morgan, Miller, Murdock and Pearson
Nay: N/A
Abstain: N/A
Absent: Councilmember Hazard

APPROVED:

Trowbridge M. Littleton, MAYOR

ATTEST:

Rhonda S. North, MMC, Town Clerk