

ARTICLE 1 General Provisions

1.1 Title

This ordinance shall be known and may be cited as the "Middleburg Subdivision and Site Plan Ordinance."

1.2 Authority and Purpose

- A. This ordinance is adopted pursuant to the authority delegated to the Town of Middleburg under Title 15.2, chapter 22, Article 6 and 15.2-2286A.8 of the Code of Virginia, 1950(as amended) and to promote good subdivision and land development practices. (Amended 5/14/98)
- B. The purpose of this ordinance is to protect the public health, safety and general welfare.
- C. The provisions of this ordinance shall be administered to ensure orderly growth and development and shall supplement and implement the provisions of the Comprehensive Plan and Zoning Ordinance.

1.3 Jurisdiction

- A. The provisions of this entire ordinance shall be applicable in the Town of Middleburg and in Loudoun County. In addition, the provisions of this ordinance relating to the subdivision of land shall be applicable in Loudoun County, within the one-mile extraterritorial jurisdiction area granted to the Town, as reflected in Section 1241.03 of the 1984 Loudoun County Land Subdivision and Development Ordinance, as amended, and in accordance with the provisions of Title 15.2-2248 *et seq.* of the Code of Virginia (1950), as amended. (Amended 1/21/99)
- B. This ordinance shall apply to any condominium development in the same manner as it would to a physically identical project or development under a different form of ownership. Condominium developers shall submit a site plan as provided in Article 5 of this ordinance; however, the site plan shall be reviewed in accordance with the procedures governing a preliminary subdivision under Section 4.2 of this ordinance, except that the provisions of Section 5.3.3 shall apply to approval by the Planning Commission. In addition, the developer of any conversion condominium shall file with the town all information required by the Virginia Real Estate Commission pursuant to § 55–79.89, Code of Virginia, 1950 (as amended) and a copy of the formal notice required to be provided by §55–79.94(b), Code of Virginia, 1950 (as amended) to each of the tenants of the building which the developer intends to convert to condominium development. These documents shall be filed with the town not later than their required filing with the Virginia Real Estate Commission.

- C. This ordinance shall become effective upon adoption by the Middleburg Town Council.

1.4 Fees

The town council shall establish reasonable fees sufficient to recover incurred costs for town review of plats and plans and for inspection of facilities and improvements required to be installed by this ordinance. A schedule of fees applicable to such reviews may be adopted in accordance with the provisions of § 15.2-107, Code of Virginia, 1950 (as amended).

(Amended 5/14/98)

1.5 Compliance Required

- A. No person shall subdivide or develop land without fully complying with the provisions of this ordinance.
- B. No plat of any subdivision shall be recorded unless and until it shall have been submitted and approved in accordance with the provisions of this ordinance.
- C. No person shall sell or transfer any land of a subdivision before such plat has been duly approved and recorded as provided herein, unless such subdivision was lawfully created prior to the adoption of an applicable subdivision ordinance. Nothing herein contained shall be construed as preventing the recordation of the instrument by which such land is transferred or the passage of title as between the parties to the instrument.
- D. No zoning or building permit shall be issued for the use of or construction on any land unless such land is subdivided or developed in compliance with this ordinance.

1.6 Enforcement and Penalties

- A. The administrator shall administer and enforce the provisions of this ordinance; provided, however, that the town council shall administer and enforce Articles 7 and 8 of this ordinance pertaining to the bonding of public improvements and reimbursement agreements for off-site improvements.
- B. Violation of the provisions of this ordinance shall be deemed a misdemeanor, punishable as provided by law and with each day such violation continues constituting a separate offense. Any person violating the provisions of this ordinance shall be subject to a fine of not more than \$500 for each lot or parcel of land so subdivided or transferred or sold; and the description of such lot or parcel by metes and bounds in the instrument of transfer or other document used in the process

of selling or transferring shall not exempt the transaction from such penalties or from the remedies herein provided. The town shall have recourse to such remedies in law and equity as may be necessary to ensure compliance with the provisions of these regulations.

1.7 Conflict and Severability

- A. Where the conditions imposed by any provisions of this ordinance are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this ordinance or any other applicable law, ordinance, resolution, rule or regulation of any kind, the regulations which are more restrictive and impose higher standards or requirements shall apply; provided, however, that where a standard in this ordinance conflicts with a comparable standard in the Middleburg Street and Parking Ordinance, the standard of this ordinance shall apply.

The provisions of this ordinance are severable. If a section, clause, or phrase of this ordinance is adjudged by a court of competent jurisdiction to be invalid, the decision shall not affect the validity of the remaining parts of this ordinance.