

GENERAL PROVISIONS

Chapter 1

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[HISTORY: Adopted by the Council of the Town of Middleburg: Art. 1, 3-8-1990; Art. II, at time of adoption of Code 3-8-1990 (see Ch. 1, General Provisions, Art.1). Amendments noted where applicable.]

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ARTICLE I

**Adoption of Code
[Adopted 3-8-1990]****§ 1-1. Adoption of Code.**

There is hereby adopted by the Town Council that certain Code entitled the "Code of the Town of Middleburg, Virginia," containing certain ordinances of a general and permanent nature as compiled, consolidated, amended, codified and indexed in Chapters 1 to 122, both inclusive, of which Code not fewer than three (3) copies have been and are now filed in the office of the Town Treasurer/Clerk and shall there be available to the public for inspection during normal business hours.

§ 1-2. When effective.

The provisions of such Code shall be in force on and after March 8, 1990.

§ 1-3. Repealer.

All ordinances of a general and permanent nature adopted on final reading and passage on or before June 1, 1988, and not contained in such Code are hereby repealed from and after the effective date of this ordinance, except as hereinafter provided.

§ 1-4. Provisions saved from repeal.

The repeal provided for in § 1-3 of this ordinance shall not affect the following ordinances, rights and obligations, which are hereby saved from repeal:

- A. Any offense or act committed or done or any penalty or forfeiture incurred or any contract or right established or accruing before the effective date of this ordinance.
- B. Any prosecution, suit or proceeding pending or any judgment rendered prior to the effective date of this ordinance.
- C. Any ordinance or resolution promising or guaranteeing the payment of money for the town or authorizing the issue of any bonds of the town or any evidence of the town's indebtedness or any contract or obligation assumed by the town.
- D. Any annual tax levy.
- E. Any right or franchise conferred by ordinance or resolution of the Town Council on any person or corporation.

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- F. Any ordinance adopted for purposes, which have been consummated.
- G. Any ordinance which is temporary although general in effect, or special, although permanent in effect.
- H. Any ordinance relating to the compensation of the town's officers or employees.
- I. Any ordinance annexing territory to the town.
- J. Any ordinance naming, renaming, opening, accepting or vacating streets, alleys or rights-of-way in the town.
- K. Any ordinance relating to the Zoning Map.
- L. Any ordinance adopted on final reading and passage after June 1, 1988.
- M. Any ordinance relating to subdivision of land.
- N. Any ordinance relating to zoning.

§ 1-5. Severability.

It is hereby declared to be the intention of the Town Council that the sections, paragraphs, sentences, clauses and phrases of this ordinance and the Code hereby adopted are severable, and, if any phrase, clause, sentence, paragraph or section of this ordinance or the Code hereby adopted shall be declared unconstitutional or otherwise invalid by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this ordinance or the Code hereby adopted.

§§ 1-6 through 1-8. (Reserved)

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ARTICLE II

Miscellaneous Provisions
[Adopted 3-8-1990]**§ 1-9. Designation and citation of Code.**

The ordinances embraced in this and the following chapters and sections shall be known and cited officially as the "Town Code of Middleburg, Virginia." These ordinances may also be cited as the "Town Code."

§ 1-10. Definitions and rules of construction.

In the interpretation and construction of this Code and of all ordinances of the municipality, the following definitions and rules of construction shall be observed, unless they are inconsistent with the manifest intent of the Council or the context clearly requires otherwise:

- A. Definitions. As used in this Code, the following terms shall have the meanings indicated:

CODE; THIS CODE - Whenever referred to in this Code without further qualification, the "Town of Middleburg, Virginia," as designated in § 1-9.

COUNCIL or THE COUNCIL - The Council of the Municipality of Middleburg, Virginia.

COUNTY or THE COUNTY - The County of Loudoun in the Commonwealth of Virginia.

FOLLOWING - When used by way of reference to any section or sections in the Code, next following that in which such reference is made.

IN THE MUNICIPALITY; WITHIN THE MUNICIPALITY - Any territory, jurisdiction of which, for the exercise of its regulatory power, has been conferred on the municipality by public or private law.

MONTH - A calendar month.

MUNICIPALITY; TOWN - The Corporation of Middleburg, in the County of Loudoun and Commonwealth of Virginia, a town corporate in the name and style of the town of Middleburg.

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OCCUPANT - Applied to a building or land, any person who holds a written or oral lease of or actually occupies the whole or a part of such building or land, either alone or with others.

OWNER - Applied to a building or land, includes any part owner, joint owner, tenant in common, joint tenant or tenant by the entirety, of the whole or a part of such building or land.

PERSON - Includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit.

PRECEDING - When used by way of reference to any section or sections in this Code, next preceding that in which such reference is made.

PROPERTY - Real, personal or mixed property.

PUBLIC GROUNDS - The parks and all public lands owned by the municipality and those parts of public places which do not form traveled parts of streets, as defined in this section.

SIDEWALK - Any portion of a street between the curblines, or the lateral lines of a roadway where there is no curb, and the adjacent property line intended for the use of pedestrians.

STATE or THE STATE or THIS STATE - The Commonwealth of Virginia.

STREET - Includes avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the municipality; and the entire width thereof between abutting property lines. It shall also be construed to include a sidewalk or footpath, unless the contrary is expressed or unless such construction would be inconsistent with the manifest intent of the Council.

YEAR - A calendar year.

B. Rules of Construction

- (1) **Bond.** When a bond is required, an undertaking in writing shall be sufficient.
- (2) **Computation of time.** When a notice is required to be given or any other act to be done a certain time before any proceeding, there must be that time, exclusive of the day

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for such proceeding, but the day on which such notice is given or such act is done may be counted as part of the time; but when a notice is required to be given or any other act to be done within a certain time after any event, that time shall be allowed in addition to the day on which the event occurred.

- (3) Gender. A word importing the masculine gender only may extend and be applied to females and to corporations as well as males.
- (4) Oath. The word "oath" shall be construed to include an affirmation in all cases in which, by law, an affirmation may be substituted for an oath.
- (5) Shall. The word "shall" shall be mandatory.
- (6) Swear; sworn. The words "swear" or "sworn" shall be equivalent to the words "affirm" or "affirmed" in all cases in which, by law, an affirmation may be substituted for an oath.
- (7) Tense. Words used in the past or present tense may include the future, as well as the past and present.
- (8) Written; in writing. The words "written" and "in writing" shall include typewriting, printing on paper and any other mode of representing words and letters.

§ 1-11. Catchlines of sections.

The catchlines of the sections of this Code, appearing in boldface type, are intended as mere catchwords to indicate the contents of the sections and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor, unless expressly so provided, shall they be so deemed when any section, including its catchline, is amended or reenacted.

§ 1-12. Continuation of existing ordinances.

The provisions appearing in this Code, so far as they are the same as those of the ordinances of the municipality included herein, shall be considered as continuations thereof and not as new enactments.

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§ 1-13. Miscellaneous ordinances not affected by Code.

Nothing in this Code or the ordinance adopting this Code shall affect any ordinance:

- A. Promising or guaranteeing the payment of money by or for the municipality or authorizing the issuance of any bonds or any evidence of indebtedness.
- B. Authorizing or otherwise relating to any contract.
- C. Granting any franchise or right.
- D. Appropriating funds, levying or imposing taxes or relating to an annual budget.
- E. Authorizing, providing for or otherwise relating to any public improvement.
- F. Making any assessment.
- G. Establishing, extending or contracting the corporate limits of the municipality.
- H. The purposes of which have been accomplished.
- I. Which is temporary, although general in effect.
- J. Which is special, although permanent in effect, and all such ordinances are hereby recognized as continuing in full force and effect to the same extent as if set out at length in this Code.

§ 1-14. Effect of Code on prior rights and offenses.

Nothing in this Code or the ordinances adopting this Code shall affect any offense or act committed or done, or any penalty or forfeiture incurred, or any contract or right establishing or accruing, or any prosecution, suit or proceeding pending or any judgment rendered, on or before the effective date of this Code.

§ 1-15. Effect of Code and ordinances on property outside corporate limits but owned or controlled by town. [Amended 3-8-1990].

All provisions of this Code and other ordinances of the municipality now in effect or adopted in the future are hereby extended to all real property belonging to or under the control of the municipality outside the corporate limits of the municipality and shall be in full effect therein, insofar as they are applicable. Any words in any such provision

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indicating that its effect is limited to the corporate limits of the municipality shall be deemed to mean and include also such outlying real property belonging to or under the control of the municipality unless the context clearly indicates otherwise.

§ 1-16. Amendments to Code.

- A. Amendments to any of the provisions of this Code shall be made by amending such provisions by specific reference to the section number of this Code in the following language: "That section _____ of the Town of Middleburg, Virginia (or the Town Code) is hereby amended to read as follows: _____." The new provisions shall then be set out in full as desired.
- B. In the event that a new section not heretofore existing in the Code is to be added, the following language shall be used: "That the Town Code of Middleburg, Virginia (or the Town Code) is hereby amended by adding a section, to be numbered, which said section reads as follows:" The new section shall then be set out in full as desired. **[Amended 3-8-1990].**

§ 1-17. Supplementation of Code.

- A. By contract or by municipal personnel, supplements of this Code shall be prepared and printed whenever authorized or directed by the Council. A supplement to the Code shall include all substantive permanent and general parts of ordinances adopted during the period covered by the supplement and all changes made thereby in the Code. The pages of a supplement shall be so numbered that they will fit properly into the Code and will, where necessary, replace pages which have become obsolete or partially obsolete, and the new pages shall be so prepared that, when they have been inserted, the Code will be current through the date of the adoption of the latest ordinance included in the supplement. **[Amended 3-8-1990].**
- B. In preparing a supplement to this Code, all portions of the Code which have been replaced shall be excluded from the Code by the omission thereof from reprinted pages.
- C. When preparing a supplement to this Code, the codifier (meaning the person, agency or organization authorized to prepare the supplement) may make formal, nonsubstantive changes in ordinances and parts of ordinances included in the supplement, insofar as it is necessary to do so to embody them into a unified Code. For example, the codifier may:
 - (1) Organize the ordinance material into appropriate subdivisions.

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- (2) Provide appropriate catchlines, headings and titles for sections and other subdivisions of the Code printed in the supplement and make changes in such catchlines, headings and titles.
- (3) Assign appropriate numbers to sections and other subdivisions to be inserted in the Code and, where necessary to accommodate new material, change existing section or other subdivision numbers.
- (4) Change the words "this ordinance" or words of the same meaning to "this chapter" or "this article" etc., as the case may be, or to "Sections _____ to _____" (inserting section numbers to indicate the sections of the Code which embody the substantive sections of the ordinance incorporated into the Code).
- (5) Make other nonsubstantive changes necessary to preserve the original meaning of ordinance sections inserted into the Code; but in no case shall the codifier make any change in the meaning or effect of ordinance material included in the supplement or already embodied in the Code. **[Amended 3-8-1990]**

§ 1-18. Copies of Code and supplements to be on file.

At least three (3) copies of this Code and every supplement thereto shall be kept in the office of the Clerk of the Council and shall there be available for public inspection, during normal business hours.

§ 1-19. General penalty.

Wherever in this Code, or in any ordinance or resolution of the town, or rule or regulation or order promulgated by any officer or agency of the town under authority duly vested in him or it, any act is prohibited or is declared to be unlawful or an offense or a misdemeanor, or the doing of any act is required or the failure to do any act is declared to be unlawful or an offense or a misdemeanor, and no specific penalty is provided for the violation thereof, the violation of any such provision of this Code or any such ordinance, resolution, rule, regulation or order shall be punished as if guilty of a Class 1 misdemeanor, as defined in § 18.2-11 of the Code of Virginia (1950); provided, however, that such penalty shall not exceed the penalty prescribed by the Code of Virginia for a like offense. Each day any violation of this Code or any such ordinance, resolution, rule, regulation or order continues shall constitute a separate offense.

§ 1-20. Liability of corporations and organizations.

- A. Any violation of this Code by any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization, while acting within the scope of his office or employment,

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shall in every case also be deemed to be a violation by such corporation, association or organization.

- B. Any officer, agent or other person acting for or employed by any corporation or unincorporated association or organization shall be subject and liable to punishment, as well as such corporation or unincorporated association or organization, for the violation by it of any provision of this Code, where such violation was the act or omission or the result of the act, omission or order of any such person.

§ 1-21. Severability of Code provisions.

If any part, section, subsection, sentence, clause or phrase of this Code is for any reason declared to be unconstitutional or invalid, such decision shall not affect the validity of the remainder of this Code.