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Chapter 113

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[HISTORY: Adopted by the Council of the Town of Middleburg as Ch. 7 of the 1961 Code. Sections 113-1 and 113-20 amended at time of adopting of Code; see Ch. 1 General Provisions, Art. I. Other amendments noted where applicable.]

GENERAL REFERENCES

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| Building, plumbing and electrical - See Ch. 36. | Fire protection and prevention - See Ch. 46. |
| Sewers - See Ch. 83. | Streets and sidewalks - See Ch. 91. |
| Subdivision of land - See Ch. 94. | Zoning - See Ch. 122. |

§ 113-1 Turning on service restricted [Amended 3-8-1990]

No water from the town water supply shall be turned on for service into any premises by any person other than as authorized by the Town Council.

§ 113-2 Application; fee for turning on water [Amended in its entirety 06/24/12; 09/24/20]

- A. Application to have water turned on shall be made in writing to the Finance Director/Town Treasurer on forms provided by the Town, and shall contain an agreement by the applicant to abide by and accept all of the provisions of this chapter as conditions governing the use of the Town water supply by the applicant.

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- B. In accordance with Virginia Code § 15.2-2119.4, as may be amended, any application by a person other than the property owner of a dwelling or building unit, hereinafter referred to as a tenant, shall be accompanied by written or electronic authorization from the property owner for the tenant to obtain water and sewer services in the name of such tenant. Said authorization shall consist of a copy of the signed lease or a statement that includes the following: (1) the date; (2) full tenant name and address; (3) a statement indicating that “[insert tenant name] has entered into a lease for the property located at [insert address] and is authorized to obtain services at this address as a tenant of [insert property owner’s name].” Said statement shall be addressed to the Town of Middleburg and signed by the property owner.
- C. In the event the property owner fails or refuses to submit the written or electronic authorization as required in paragraph (B) above, the Town shall require the property owner to contract for the water service and to pay the associated charges.
- D. In the event the property has a single water meter that serves multiple tenant units, the Town shall require the property owner to contract for the water service and to pay the associated charges.
- E. In the event a tenant removes an account on a property from his/her name, the Town shall require the property owner to contract for the water service and to pay the associated charges unless the property owner notifies the Town to shut off the water services. The property owner may file a standing application with the Town to automatically place the water service account in said owner’s name when a tenant removes it from tenant’s name and pay a one-time administrative fee as identified in Section 113-3(A) below. In the event the property owner does not file such standing application and wishes for the water service to remain on when the account is not in a tenant’s name, he/she must file an application to contract for water service each time a tenant removes the account from tenant’s name and pay the administrative fee as identified in Section 113-3(A) below.

§ 113-3 Deposit [Amended 8-11-77; 9-13-84; 6-9-88; 7-15-98; 12-14-00; Amended in its entirety 6-24-12; 09-24-20]

- A. For the establishment of accounts effective July 1, 2012, each occupant of a dwelling or building that is served by a metered waterline who is the owner of said dwelling or building unit, hereinafter referred to as the owner, shall be required to pay a non-refundable administrative fee of thirty-five dollars (\$35).
- B. For the establishment of accounts effective July 1, 2012, each occupant of a dwelling or building that is served by a metered waterline who is a tenant shall be required to pay a nonrefundable administrative fee of thirty-five dollars (\$35). In addition, the tenant shall be required to pay a deposit, subject to the provisions herein, equal to the previous three months water and sewer billings. When the account is terminated, said deposit shall first be applied to any unpaid water bills,

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with any remaining deposit balance being refunded within thirty (30) days to the tenant without interest.

- C. In the event the tenant provides the Town with a landlord authorization letter and documentation showing said tenant receives need-based local, state or federal rental assistance, no deposit shall be required. The absence of a security deposit shall not prevent the Town from exercising its lien rights as allowed by State Code and set forth in Sections 113-30 and 113-31 herein.

§ 113-4 Plumbing requirements

No water shall be turned on for service in premises in which the plumbing does not comply with the ordinances of the town, provided that water may be turned on for construction work in unfinished buildings, subject to the provisions of this chapter.

§ 113-5 Service connections and availability; fees
[Amended 3-12-74; 4-9-81; 5-22-08; 6-24-12; 12-8-16].

- A. No unauthorized person shall uncover, make any connections with, use, alter or disturb any public waterline or meter box and appurtenances or use, alter, disturb or molest any meter valve, cock, pipe or other property of the Middleburg water system. The Town's designated contractor will make all connections (metered taps) and set all meters after the owner has obtained written permission from the Town Administrator (amended 6/24/12)
- B. 1. Approval of a 5/8 inch connection to the public water system shall be granted by the Town Administrator, when the connection is located within the Town limits and when capacity is available, upon the submission and approval of (1) a location permit application in accordance with the provisions of the Zoning Ordinance, (2) a water connection/extension application and (3) a Business Utility form to calculate the specific number and size of the taps. Construction of all water taps allocated must be completed per the approved location permit within twelve (12) months. Unused allocations that remain at the conclusion of the twelve (12) month period will be revoked by the Town and the applicant will be returned the availability and tapping fees within thirty (30) days of their expiration without interest. The Town Administrator may, upon consideration of a written request by the applicant and for good cause shown, extend the expiration date for a period not to exceed twelve (12) months. The request must be made in writing prior to the expiration date and must explain the need for the extension. Only one (1) extension shall be granted. The water tap(s) must be installed within twenty-four (24) months of the date of their initial approval. Failure to install the tap(s) within this period shall result in the unused allocations being revoked by the Town, with the availability and tapping fees being returned to the applicant within thirty (30) days of their expiration without interest. Water taps are allocated to a particular project as defined in the corresponding location permit. Such taps may not be sold, traded, exchanged or transferred in any other way. [Added 11/10/16; amended 12/08/16]

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2. With the exception of 5/8 inch water connections within the Town limits, approval to connect to the public water supply system or to increase the size of the existing connection shall be granted by the Town Council, when capacity is available, upon submission and approval of (1) a location permit application in accordance with the provisions of the Zoning Ordinance, (2) a water connection/extension application and (3) a Business Utility Form to calculate the specific number and size of the taps. Construction for which water tap(s) are allocated must be completed per the approved location permit within twelve (12) months of the date of allocation of the taps by the Town. Unused allocations that remain at the conclusion of the twelve month period shall be revoked by the Town, and the applicant shall be returned the availability and tapping fees within thirty (30) days of their expiration without interest. The Town Council may, upon consideration of a written request by the applicant, extend the expiration date for a period not to exceed twelve (12) months. The request must be made in writing prior to the expiration date and only one (1) extension shall be granted. The water tap(s) must be installed within twenty-four months of the date of their initial approval. Failure to install the tap(s) within this period will result in the unused allocations being revoked by the Town, with the availability and tapping fees being returned to the applicant within thirty days of their expiration without interest. Water taps are allocated to a particular project as defined in the corresponding location permit. Such taps may not be sold, traded, exchanged or transferred in any way [Added 1-10-85; amended 6/24/12, 11/10/16, 12/8/16].
- C. For purposes of this section, capacity is deemed available when the number of taps requested together with other taps committed but not yet connected will not cause estimated water production to exceed 90% of permitted capacity as measured during the prior nine months [Amended 6-24-12].
 - D. Water connection (tapping) fee. No connection with the public water system will be made except on the payment of a connection fee as set forth in the schedule of water and wastewater charges established by the Town Council. Such fee shall be due and payable prior to the issuance of a location permit. **[Amended 6-8-1989; 3-8-1990; 6-14-1990; 11-11-04; 7-13-06; 5-22-08]**
 - E. Water availability fee. In addition to the water connection fee, there shall be an availability fee. This fee shall apply to every water connection application and shall be a fixed charge based on the water connection tap-size (interior diameter) and the type of land use as set forth in the schedule of water and wastewater charges established by the Town Council. Such fee shall be payable prior to the issuance of a location permit [Amended 10-14-04; 11-11-04; 07-13-06; 05-22-08; 6-24-12].
 - F. Increase in water usage and/or tap size. (i) The remodeling or expansion of buildings already connected to the public water supply that will result in a substantial increase in water consumption or (ii) the replacement of one building already connected to the public water supply with another that will result in

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- substantial increase in water consumption or (iii) the conversion from one use to another that will result in substantial increase in water consumption or (iv) replacing an existing tap with a tap of a larger size shall be assessed an additional availability charge equal to the difference between the charge for the new building or use and the charge for the original building or use on the schedule of water and wastewater charges established by the Town Council at the time of the proposed construction or conversion. In addition to the foregoing, new buildings constructed on property already connected to the public water supply shall be assessed availability fees for new construction imposed by subsection E, and if separately connected to the public water supply a connection fee as required by subsection D above [Amended 7-13-06; 6-24-12].
- G. Water Meter Relocation Fee. The relocation of an existing water meter, where said relocation will not result in an increase in water consumption based upon the prior usage for which the availability charge was assessed, shall be assessed a water meter relocation fee as set forth in the schedule of water and wastewater charges established by the Town Council [Added 09-09-11].
- H. Payments required by subsection F above shall be made in full prior to the issuance of a zoning permit.[**Amended 7-13-06**]
- I. No refund of such payment pursuant to subsection F shall be made in the event of subsequent change to a use requiring a lower availability charge.[**Amended 7-13-06**]

§113-5.1 Required connection with town's water supply; private well prohibited [Added 2-28-08; Amended 6-24-12]

- (a) On and after the adoption of this ordinance, the owner or tenant of any real property located within the town and bordering upon a public street or alley or public right-of-way along which a public water line has been laid, and whose property is in need of water service shall connect their property to the public water line. It shall be unlawful for the owner or tenant to use private wells or any other alternative water supply facilities when town water lines are available for connection. It shall also be unlawful for any owner or tenant whose property is connected to the town's water lines to disconnect the property from the town's water lines and connect the property to a private well or other alternative water supply facility [Amended 6-24-12].
- (b) The provisions of subsection (a) notwithstanding, property served by a source of potable water located on the same parcel and not connected to the public water supply may continue to be served by such water source until any change in use of the property that requires issuance of a zoning permit.

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- (c) On and after the adoption of this ordinance, it shall be unlawful for any person to drill a well within the town limits except for wells intended and approved for connection to the municipal water supply.
- (d) The owner or tenant of any property which is required to be connected to the town's water system shall see that water from the town's system is connected to the property and not cut off from the town's water system at any time, except for necessary repairs, while such property is being occupied or used. The owner or tenant of the property shall cause the water bill for the use of water to be paid to the town when due. No person shall occupy or use any property which is required to be connected to the town's water system, if the property is not connected to, or is cut off from, the town's water system, except when necessary for repairs.
- (e) Property owners and tenants may continue to use existing private wells or other alternative water supply facilities for irrigation, agricultural and landscaping purposes.

§ 113-6 Resale of water

No water shall be resold or distributed by the recipient thereof from the town supply to any premises other than that for which application has been made and the meter installed, except in case of emergency.

§ 113-7 Tampering with system

It shall be unlawful for any person not authorized by the town to tamper with, alter or injure any part of the town waterworks or supply system or any meter.

§ 113-8 Water conservation [Added 6-12-86]

- A. During periods of drought and/or abnormally high levels of water consumption, the Council may impose water conservation measures to reduce the danger to the town's water supply and distribution system. Such measures shall be enforced only after due notice is made to the consumers and may be lifted by Council action when the drought conditions abate.
- B. The conservation measures will prohibit any use of town water exterior to a commercial or residential building as follows:
 - (1) Level A: except during the hours of 6:00 p.m. to 9:00 p.m.; provided, however that (i) plants in containers can be watered from hand-held containers any time, and (ii) businesses engaged in the sale of plants in containers shall be exempt from the hours of restriction for the purpose of watering such plants only. [Amended 8-8-02; Amended 6-24-12]

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- (2) Level B: at any time; provided however, that plants can be watered from a hand-held container. [Amended 10-11-07; 6-24-12]

§ 113-9 Violations and penalties [Amended 9-12- 96;3-13-97; 6-24-12]

Any person, firm or corporation violating any provision of this Chapter shall be fined not less than one hundred dollars (\$100.) nor more than the maximum allowable fine authorized by Virginia Code Section 15.2-1429 for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues.

**ARTICLE II
Service Pipes**

§ 113-10 Installation [Amended 6-24-12]

All service pipes from the mains to the premises served shall be installed by, and at the cost of, the owner of the property to be served on the application for the service. Such installation shall be under the inspection of the Town's duly authorized inspector.

§ 113-11 Specifications [Amended 1-28-10; 6-24-12]

No service shall be installed unless it conforms to the specifications as adopted by the Town Council.

§ 113-12 Repairs and Maintenance Responsibilities [Amended 6-24-12; 01-09-14]

The Town shall be responsible for the maintenance and repair of the Town treatment works. Maintenance of private water service lines (laterals) shall be the responsibility of the owner of the premises served by such lines as specified in the Town's Supplemental Water and Sewer Regulations as adopted by the Town Council. The Town may, in case of any emergency, repair any service pipes, with the direct cost of such repair work being billed to the owners within thirty (30) days of said repair. Such invoice shall be paid to the Town by the owner of the premises served within thirty (30) days of receipt.

§ 113-13 Excavations

Excavations for installing service pipes or repairing the same shall be made in compliance with the ordinance provisions relating to making excavations in streets, provided that it shall be unlawful to place any service pipe in the same excavation with or directly over any drain pipe or sewer pipe.

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§ 113-14 Shutoff boxes

Shutoff boxes shall be placed on every service pipe and shall be located between the curb line and the sidewalk line where this is practicable. Such boxes shall be located so they are easily accessible and shall be protected from frost.

ARTICLE III**Cross Connections and Backflow Prevention**

[Added 11-11-82; Amended in its entirety 6-24-12]

§ 113-15 Definitions

As used in this Article, the following terms shall have the meanings indicated:

Auxiliary Water System – Any water system on or available to the premises other than the waterworks. These auxiliary waters may include water from a source such as wells, lakes or streams, or process fluids or used water. They may be polluted or contaminated or objectionable or constitute a water source or system over which the water purveyor does not have control.

Backflow – The flow of contaminants, pollutants, process fluids, used water, untreated waters, chemicals, gases or non-potable waters into any part of a waterworks.

Backflow Prevention Device – Any approved device, method or type of construction intended to prevent backflow into a waterworks.

Consumer – The owner or person in control of any premises supplied by or in any manner connected to a waterworks.

Contamination – Any introduction into pure water of microorganisms, wastes, wastewater, undesirable chemicals or gases.

Cross-Connection – Any connection or structural arrangement, direct or indirect, to the waterworks where backflow can occur.

Health Hazard – Any condition, device or practice in a waterworks or its operation that creates or may create a danger to the health and well-being of the water consumer.

Potable Water – Water fit for human consumption and use which is sanitary and normally free of minerals, organic substances and toxic agents in excess of reasonable amounts for domestic usage in the area served and normally adequate in supply for the minimum health requirement of the persons served.

Process Fluids – Any fluid or solution which may be chemically, biologically or otherwise contaminated or polluted, which would constitute a health, pollutional or system hazard if introduced into the waterworks. This includes but is not limited to: polluted or contaminated waters; process waters; used waters originated from the

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waterworks which may have deteriorated in sanitary quality; cooling waters; contaminated natural waters taken from wells, lakes, streams or irrigation systems; chemicals in solution or suspension; or oils, gases, acids, alkalis or other liquid or gaseous fluids used in industrial or other processes for fire-fighting purposes.

Process Water – Water used in a manufacturing or treatment process or in the actual product manufacture or water that comes in contact with an end product or with materials incorporated in an end product.

System Hazard – A condition posing an actual or threat of damage to the physical properties of the waterworks or a consumer's water system.

Used water – Any water supplied by a water purveyor from waterworks to a consumer water system after it has passed through the service connection.

Water Purveyor – An individual, group of individuals, partnership, firm, association, institution, corporation, municipal corporation, county or authority which supplies water to any person within this state from or by means of any waterworks.

Waterworks – All structures and appliances used in connection with the collection, storage, purification and treatment of water for drinking or domestic use and the distribution thereof to the public or residential consumers.

§ 113-16 Cross Connections

- (A) No person shall install or maintain a water service connection to any premises where cross connections to the Town's water system or a consumer's water system may exist, unless such cross connections are abated and controlled to the satisfaction of the Town.
- (B) No person shall install or maintain any connection whereby water from an auxiliary water system may enter into the Town's or consumer's water system, unless the auxiliary water system and the method of connection and use of such system shall have been approved by the Town.

§ 113-17 Inspections for Cross Connections

- (A) The Town Administrator, or duly authorized agent, shall cause inspections to be made of properties served by the waterworks where cross connections with the waterworks is deemed possible. The frequency of inspections and re-inspections, based on potential health hazards involved, shall be established in a cross connection control and backflow prevention program, and as approved by the Virginia Department of Health.

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- (B) The designated inspector for the Town shall have the right to enter at any reasonable time properties served by a connection to the Town's waterworks for the purpose of inspecting the piping system or systems for cross connections. Upon request, the owner or occupants of property served shall furnish pertinent information, if available, pertaining to the piping system or systems on such property. The refusal of such information, or refusal of access, when requested, shall be deemed prima facie evidence of the presence of cross connections.

§ 113-18 Areas Where Protection Is Required

- (A) An approved backflow prevention device shall be installed on each service line to a consumer's water system where, in the judgment of the Town, a health, pollutional or system hazard to the water system exists.
- (B) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving premises where the following conditions exist, except as noted in Section (B)(6) of this section:
- (1) Premises having an auxiliary water system, unless such auxiliary system is accepted as an additional source by the Town.
 - (2) Premises on which any substance is handled in a such a manner as to create an actual or potential hazard to the water system, including premises having sources or systems containing process fluids or waters originating from a waterworks which are not under the control of the Town.
 - (3) Premises having internal cross connections that, in the judgment of the Town, may not be easily correctable or intricate plumbing arrangements which make it impractical to determine whether or not cross connections exist.
 - (4) Premises where, because of security requirements or other prohibitions or restrictions, it is impossible or impractical to make a complete cross connection survey.
 - (5) Premises having a repeated history of cross connections being established or re-established.
 - (6) Premises having fire protection systems utilizing combinations of sprinklers, fire loops, storage tanks, pumps, antifreeze protection or auxiliary water, except that fire loops and sprinkler systems with openings not subject to flooding, containing no antifreeze or other chemicals, and with no storage or auxiliary sources, will not normally require backflow prevention.
 - (7) Premises having booster pumps connected to the waterworks shall be equipped with a low pressure cutoff device to shut off the booster pump when the pressure in the waterworks drops to a minimum of ten pounds per square inch (PSI) gauge.
 - (8) Other premises specified by the Town when cause can be shown that a potential cross connection hazard exists.

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- (C) An approved backflow prevention device shall be installed on each service line to a consumer's water system serving the following types of facilities:
- (1) Hospitals, mortuaries, clinics, nursing homes;
 - (2) Laboratories;
 - (3) Sewage treatment plants, sewage pumping stations or storm water piping stations;
 - (4) Car washes;
 - (5) Lawn sprinkler systems, irrigation systems;
 - (6) Fire service systems;
 - (7) Farms where the water is used for other than household purposes; and
 - (8) Others specified by the Town where potential backflow or cross connection hazard can be shown.

§ 113-19 Inspections of Backflow Prevention Devices

All backflow prevention devices installed as required under Section 113-18 shall be inspected as required under a cross connection control and backflow prevention program. Such inspections shall be the responsibility of the property owner.

§ 113-20 Denial or Discontinuance of Service for Deficiencies

The Town may deny or discontinue water service to a consumer if the required backflow prevention device is not installed in a reasonable period of time, not to exceed thirty (30) days from the date of any notice to the property owner at their last known address through certified mail. If it is found that the device(s) has been removed or by-passed or if a cross connection exists on the premises or if the pressure in the waterworks is lowered below ten (10) PSI gauge, the Town shall take positive action to ensure that the waterworks is adequately protected at all times. Water service to such premises shall not be restored until the deficiencies have been corrected or eliminated in accordance with the Commonwealth of Virginia waterworks regulations and to the satisfaction of the Town.

§ 113-21 Enforcement; Labeling of Supplies That Are Unsafe for Drinking

The potable water made available on the properties served by the waterworks shall be protected from possible contamination or pollution by enforcement of this Article. Any water outlet which could be used for potable or domestic purposes that is not supplied by the potable system must be labeled as "water unsafe for drinking" in a conspicuous manner.

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ARTICLE IV

Meters; User Charges**§ 113-22 Meter required; Replacement of Existing Meter [Amended 6-24-12]**

- A. All premises using the Town water supply must be equipped with an adequate water meter furnished by the Town but paid for by the consumer.
- B. Before any premises are occupied, a water meter shall be installed as herein required or application made for such water service at the flat rate of charge until the meter can be installed.
- C. In the event that an existing meter stops operating or, upon testing by the Town's designated agent, is found to not be within three percent (3%) of being accurate based upon the meter's specifications, the meter shall be replaced by the Town. Said replacement shall be paid for by the Town. When a water meter fails to register accurately, the consumer will be charged at the average daily rate as shown by the meter when in order.

§ 113-23 Location of meter [Amended 6-24-12]

Meters shall be installed in a location determined to be easily accessed by the Town's utility staff or its designated agents.

§ 113-24 Reading of meters [Amended 6-24-12]

The Town Treasurer shall read or cause to be read every water meter used in the Town at such time as is necessary so that the bills may be sent out at the proper time.

§ 113-25 Testing of meters; fee [Amended 6-24-12; Amended 6-27-13]

Any water meter shall be taken out and tested by the Town's designated agent upon complaint of the consumer. The first such test shall be free of charge. Such free testing shall occur only once during a five year period. If the consumer requests subsequent testing within a five year period, the fee for said test shall be as follows:

- A. If upon the test, the meter is not within three percent (3%) of being accurate based upon the meter's specifications, it shall be repaired or replaced, at the Town's discretion, and there shall be no charge to the consumer.
- B. If upon the test, the meter is found to be within three percent (3%) of being accurate, based upon the meter's specifications, the consumer shall be billed a thirty-five dollar (\$35.) fee, said fee to be placed upon their water bill and paid in accordance with Town Code Section 113-26.

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§ 113-26 User charges [Amended 4-28-77; 6-11-81; 2-13-97; 1-28-10; 6-24-12; 6-27-13; 09-24-20]

- A. Annual review of the water and sewer service charges. The water and sewer service rate structure shall be subject to review and revision on an annual basis using actual operating and maintenance and debt service cost figures to determine the rates for the following year.
- B. Water and sewer service charge basic rate. All users of the Town's waterworks shall be required to pay water and sewer user service charges based upon the user's metered water consumption during the billing period. Rates are set by ordinance enacted by the Town Council, pursuant to the provisions of Virginia Code Sections 15.2-2119, 2122 and 15.2-2143, as amended, and shall be as set out in the Town of Middleburg Water & Sewer Rate Schedule.

§ 113-26.1 Billing; Due Date; Delinquency Fines & Charges; Budget Billing [Added 9-24-20]

- A. Billing. Water and sewer service charges shall be billed in accordance with the billing schedule as established by the Town Council.
- B. Due Date. All payments for water and sewer services shall be due by the fifteen (15th) day of the month following the date of billing. If the 15th day of the month falls on a weekend, holiday or other day when the Town's business office is closed, the due date shall be the next regular day of business.
- C. Delinquency Fines & Charges. Accounts for which full payment is not received by the close of business on the due date are delinquent. Upon being delinquent, a late penalty of ten percent (10%) of the delinquent bill shall be charged to the delinquent account. This late penalty may be waived by the Finance Director/Town Treasurer on a one-time annual calendar year basis for those customers who have paid their bills in full by their due date for the preceding twelve (12) month period, provided the account is paid in full within ten (10) days' notice of the delinquency. If the account remains delinquent after the original notice of the total delinquency, additional late penalties of ten percent (10%) shall be charged on the fifteenth (15th) of the month for each month of delinquency and will continue to accrue until the bill is paid in full. When an account is delinquent, any payments received shall be applied to the oldest balance first, then to the current balance. In the event a non-profit organization, defined for the purposes of this Subsection C as an organization that the Internal Revenue Service has determined to be a 501(C)(3) entity or an organization that provides substantial and ongoing financial support for indigent members of the Middleburg community, pays the water service bill on behalf of a customer, the Finance Director/Town Treasurer, shall waive all late penalties associated with said bill.

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- D. Budget Billing. Notwithstanding the foregoing, the Finance Director/Town Treasurer may, in his/her discretion, enter into an agreement with a customer on a fixed or limited income for alternative billing and payment schedules. Should the customer become delinquent in payment based upon the terms of the budget billing agreement, the water service may be terminated in accordance with Section 113-29 of this Chapter.

**§ 113-26.2 Adjustments in Bills in Case of Leaks or Extraordinary Water Usage
[Added 09-24-20]**

- A. Adjustment of bill in case of leaks. When a water leak develops either in a customer's underground service line or within the structure of the water customer and the property owner or tenant could not have, by the use of ordinary diligence, discovered such leak, the Finance Director/Town Treasurer may adjust the bill by giving credit for the amount above the historic usage, to be determined by averaging the four (4) previous utility bills. The Town shall issue such credit if the leak has been repaired within ten (10) days of the customer being made aware of the leak either by the Town or by some other party and if the water consumption exceeds fifty percent (50%) of the customer's average water bill. The customer shall present confirmation to the Finance Director/Town Treasurer prior to the due date of said bill that the leak has been repaired. The average water usage shall be based upon the average of the four (4) previous billing periods. Only one leak adjustment to the water bill shall be made per property within any three-year period.
- B. Adjustment of bill in case of extraordinary water usage. In cases where there is an extraordinary water usage in excess of one hundred (100%) above the average water usage and no water leak or explanation for the usage can be found, the Town Manager may, upon request by the property owner within ten days of the date of billing, adjust the water bill to correspond to the average bill. The average water usage shall be based upon the average for the four (4) previous billing periods. Only one extraordinary water use adjustment shall be made per property within a three-year period.

**§ 113-27 Suspension of Late Fees and Termination of Service in the Event of a
Local State of Emergency [Added 03-26-2020]**

In the event the Town of Middleburg declares a local emergency, the Town Council may, by a majority vote of its members, suspend the provisions of this Article related to (1) the imposition of late fees for bills that remain unpaid after thirty (30) days and (2) the requirement that the Town Treasurer terminate services for bills that remain unpaid after sixty (60) days. Such suspension may only be enacted for a maximum period of six months, at which point, the Council may vote to extend the suspension for an additional maximum period of six-month period.

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§ 113-28 Use of water by contractors and other parties [Amended 7-15-98; 6-24-12]

- A. During the construction of any building and before any water is installed as herein provided, the contractor so constructing such building may be permitted to use the town water supply by making application therefor and paying the fees prescribed by the Council and published in the Town of Middleburg Water and Sewer Rate Schedule.
- B. Contractors and other parties may be permitted to purchase bulk water from the town by making application therefor and paying the fees prescribed by the Council and published in the Town of Middleburg Water and Sewer Rate Schedule. Sale of bulk water by the town may be suspended at any time for any reason sufficient in the judgment of the Town Administrator.

§ 113-29 Termination of Service for unpaid bills; Reconnection [Amended 09-24-20]

- A. Whenever a bill for water and sewer services remains unpaid at the close of business on the due date, the Finance Director/Town Treasurer shall notify the customer of the delinquency.
- B. Whenever a bill for water and sewer services, including late penalties, remains unpaid for sixty (60) days after the due date, it shall be mandatory for the Finance Director/Town Treasurer to terminate said service. At least ten (10) days prior to termination of service, the Finance Director/Town Treasurer shall provide the customer, including the property owner in cases in which the customer is a tenant, with written notice of such cessation. Service may be restored upon payment of said outstanding obligation. When water service is disconnected for nonpayment of bills, there shall be, in addition to any other charges, a charge of fifty dollars (\$50) for reconnection, payable at such time as the bill is paid in full. Reconnection to the water system shall not be made until such reconnection charge has been paid.
- C. In the event the service is terminated in accordance with Sections 113-29(A & B) and the service is in the name of a tenant and it is determined that the tenant has vacated the premises, the deposit held for this account shall be applied to the final bill. Should a balance remain on the account, a copy of the bill shall be mailed to the account holder at his last known mailing address.

§ 113-30 Unpaid bills; liens [Amended 6-24-12; 09-24-20]

- A. In the event the unpaid bill is in the name of the property owner, unpaid amounts for water and sewer charges; any applicable late penalties, and interest on such delinquent charges; and reasonable attorney fees and other costs of collection, not

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- to exceed twenty percent (20%) of the delinquent charges, shall be a lien upon the premises as provided by statute. Whenever a bill for water and sewer services remains unpaid sixty (60) days after its due date, the Finance Director/Town Treasurer shall terminate said service and shall provide the property owner with written notice at least thirty (30) days in advance of recordation of a lien against the property. If the bill remains unpaid at the conclusion of the thirty (30) day notification period, the Finance Director/Town Treasurer may file with the Clerk of the Circuit Court for Loudoun County a statement of lien claim in accordance with Virginia Code Section 15.2-2119 as amended. This lien statement shall contain the legal description of the premises served and the amount of the unpaid bill plus any applicable late penalties, interest, attorney fees and other costs of collections. In no case shall a lien be recorded against the property for less than twenty-five dollars (\$25).
- B. In the event the unpaid bill is in the name of a tenant, the Finance Director/Town Treasurer shall make reasonable collection efforts and practices to collect the remaining amount due from the tenant prior to sending written notice to, or taking any collection or legal action against, the property owner regarding the delinquency of the tenant. For the purposes of this section, “reasonable collection efforts and practices” shall be defined as either filing for the Virginia Setoff Debt Collection Program or placing the account with a debt collection service. If an unpaid bill remains after reasonable collection efforts have been undertaken and the Town has collected payment of a security deposit as a condition precedent to turning on the water services in the name of the tenant, the Finance Director/Town Treasurer shall notify the property owner of the outstanding obligation of the tenant and thereafter record a lien against the property owner by using the lien recordation process as identified in Section (A) above. Said lien amount shall not exceed three (3) months of delinquent water and sewer charges.
- C. In the event a lien is recorded against the property owner for the obligations of a delinquent tenant and the property owner pays any of the delinquent obligation, the property owner shall be entitled to any refunds and shall be subrogated against the former tenant in place of the Town in the amount paid by the property owner and the Town shall execute any documents necessary to perfect such subrogation in favor of the property owner.
- D. Unless a lien has been recorded against the property owner, the Town shall not deny service to a new tenant requesting service at a particular property address based upon the fact that a former tenant has not paid any outstanding fees and charges for the services in the name of the former tenant.
- E. Upon request, the Town shall provide information relative to a former or current tenant to the property owner. If the property owner provides the Town with a request to be notified of a tenant’s delinquent water bill and provides an e-mail address, the Town shall send the property owner notice whenever a tenant’s water bill has become fifteen (15) days delinquent.

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- F. A lien shall not bind or affect a subsequent bona fide purchaser of the real estate for valuable consideration without actual notice of the lien until the amount of such delinquent charges is entered in a judgment lien book in the Office of the Clerk of the Circuit Court of Loudoun County.
- G. The lien on any real estate may be discharged upon payment to the Town of the total lien amount and any interest which has accrued through the date of the payment. The Town shall deliver a certificate of release thereon to the person making the payment and record said lien release in the Office of the Clerk of the Circuit Court of Loudoun County.

§ 113-31 Foreclosure of lien [Amended 6-24-12]

- A. Property subject to a lien for unpaid water charges shall be sold for nonpayment of the same, and the proceeds of such sale shall be applied to pay the charges, after deducting costs, as is the case in the foreclosure of statutory liens. Such foreclosure shall be by bill in equity in the name of the Town.
- D. The Town Attorney is hereby authorized and directed to institute such proceedings, in the name of the Town, in any court having jurisdiction over such matters, against any property for which a water and/or sewer bill has remained unpaid six (6) months after it has been rendered.

ARTICLE V

STORAGE OF ANY SUBSTANCE WITH A MAXIMUM CONTAMINATION LEVEL IN DRINKING WATER AND THE REPORTING OF SPILLAGE OF THE SAME [Adopted 12/08/16]

§ 113-32 Purpose

To encourage proper storage and disposal of substances and to notify the Town in the event of a spill of a regulated substance in order to protect the public's health and safety by minimizing the risk of contamination and to preserve and protect the existing and potential sources of drinking water as allowed under Virginia Code Section 15.2-2109.

§ 113-33 Definitions

Maximum Contamination Levels (MCLs): The highest level of a contaminant that is allowed in drinking water.

Maximum Contamination List: The list of contaminants and their MCLs as identified by the United States Environmental Protection Agency under the Safe Drinking Water Act, as may be amended, a copy of which can be found on the Town of Middleburg website.

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§ 113-34 Application

This Article shall apply to all properties located within the Town of Middleburg located within Wellhead Protection Zones 1 and 2.

§ 113-35 Adoption of Maps

The Wellhead Protection Area Maps as contained in the Wellhead Protection Plan as adopted by Council on May 23, 2013 are hereby adopted by reference and made a part of this Ordinance.

§ 113-36 Storage of Regulated Contaminants

In the event a substance containing a contaminant as identified on the Maximum Contamination List is stored, handled, manufactured or used on an individual property in Wellhead Protection Zones 1 and 2, they shall be stored as follows:

- A. Contaminants shall be stored in accordance with the manufacturer's recommendations;
- B. Storage containers shall be labeled and shall allow for visual inspection;
- C. Storage containers shall be designed to have proper containment to protect against spillage and release during filling, mixing, withdrawal or use of the contents;
- D. Storage containers shall be maintained, repaired and/or replaced so as to be kept in good working order for the prevention of leaks, spills or escapes;
- E. Storage containers that are no longer in use shall be emptied, closed and properly disposed of.

§ 113-37 Reporting of Spills

- A. Any discharge of a regulated substance(s) in excess of five (5) gallons if liquid or twenty-five (25) pounds if solid, or in a lesser amount if otherwise recommended on the packaging, shall be reported immediately by the owner or responsible party to the Town Administrator. Such reporting shall in no way relieve the owner or responsible party from other local, state or federal reporting obligations. The owner or responsible party providing notification shall inform the Town Administrator of the substance(s) discharged, the amount, location, duration of discharge and potential hazard to groundwater, if known.
- B. A discharge of a quantity of a regulated substance must be remedied such that containment of soils, surface water or groundwater is brought into compliance with local, state and/or federal regulations.
- C. Clean-up activities shall begin concurrent with or immediately following emergency response activities. A full written report including the steps taken to contain and clean-up the spill shall be submitted to the Town Administrator within forty-five (45) days of the discovery of the spill.