

**Town Ordinance, Town of Middleburg, Virginia
Abstracted April 2016**

http://www.middleburgva.gov/Town_Ordinances.html

Chapter 63.2 NOISE

[HISTORY: Chapter 63 was adopted by the Council of the Town of Middleburg on 7-12-84. It was repealed in its entirety on 3-26-09; and, Chapter 63.1 was adopted in its stead. It was repealed in its entirety on 08-22-13 and Chapter 63.2 was adopted in its stead.]

63.2-6 Maximum Sound Levels and Residential Dwellings

...
4. Exemptions. The following activities or sources of noise shall be exempt from the daytime prohibition set forth in subsection (2) of this section:

- ...
d. Gardening, lawn care, tree maintenance or removal, and other landscaping activities provided the activity begins no earlier than 7:00 a.m. and is concluded no later than 9:00 p.m. Monday through Saturday and which begins no earlier than 8:00 a.m. and is concluded no later than 900 p.m. on Sunday.
...

Chapter 87 SOLID WASTE

[HISTORY: Adopted by the Council of the Town of Middleburg on 2/10/2011]

ARTICLE III Recycling

87-11 Approved recycling items

...
B. Yard waste shall include organic items, including grass clippings, leaves and other yard waste. It shall also include brush. Yard waste shall be disposed of in accordance with Section 87-13.

87-13 Yard waste disposal

- A. Organic yard waste may be placed in biodegradable paper bags or loose in trash cans. If trash cans are used for yard waste, they must have a "Yard Waste" sticker on them, be equipped with handles for lifting and have tightly-fitting lids.
B. Brush shall be bundled and tied with string or twine. Brush shall be no longer than three (3) feet or have a diameter of more than three (3) inches.
C. Yard waste set out for collection shall not exceed twenty-five (25) pounds in weight, including the weight of the container.

Chapter 91 STREETS AND SIDEWALKS

ARTICLE I General Regulations

91-11 Sidewalk composition

Sidewalks constructed within the town will be of material approved by the Town Council. Details of installation will be presented to the Town Engineer for review and recommendation to the Council when deemed necessary. Grates will be utilized where trees are located in the walkways.

[Amended 10-11-1990]

Chapter 105 TREE PRESERVATION

[HISTORY: Adopted by the Council of the Town of Middleburg on 12/9/2010; amended 2/10/2011.]

105-1 Purpose

The purpose of this chapter is to encourage the planting and proper care of trees throughout the Town of Middleburg, to promote the preservation of existing trees and the replenishment of the tree stock to the maximum extent possible. These actions are intended to promote and contribute to the health, safety and general welfare of the Town and its inhabitants by decreasing flooding, soil erosion, air pollution and noise, by removing unsafe and hazardous conditions and by improving aesthetic and quality of life.

105-2 Definitions

The words and phrases defined in this section shall have the meaning indicated when used in the ordinance, unless otherwise specifically provided, or unless clearly required by the context.

Street trees: Trees, shrubs, and all other woody vegetation on land lying between property lines on either side of all streets, avenues or ways within the Town.

Park trees: Trees, shrubs, and all other woody vegetation in public parks having individual names, and all areas owned by the Town, or to which the public has free access as a park.

(Amended 2/10/2011)

105-3 Creation and Establishment of Middleburg Streetscape Committee

There is hereby created and established a Middleburg Streetscape Committee (hereinafter referred to as Streetscape Committee) for the Town of Middleburg, Virginia which shall consist of a minimum of three members, who shall be appointed by the Town Council.

105-4 Duties and Responsibilities

It shall be the responsibility of the Streetscape Committee to develop and update annually a management plan for the care, preservation, pruning, planting, replanting, removal or disposition of trees and shrubs in parks, along streets and in other public areas. The plan shall be presented annually to the Town Council. The standards and specifications contained in the plan shall apply not only to work performed by the Town, but to private individuals and contractors as well.

105-5 Operation

The Streetscape Committee shall choose its own officers, make its own rules and regulations and keep a journal of its proceedings. A majority of the members shall be a quorum for the transaction of business.

105-6 Street Tree Species to be Planted (See Middleburg Zoning Ordinance)

The Streetscape Committee shall develop, maintain and update a listing of trees considered most desirable for planting along streets in the following three size classes based on mature height:

- Small Trees (under 15 feet)
- Medium Trees (15 to 30 feet)
- Large Trees (over 30 feet)

The Streetscape Committee shall also develop and regularly review and update a list of trees that are prohibited for planting. This list will include, among others, trees considered to be invasive, those that are considered to be water-seeking trees and other species known to have insect and/or disease problems.
(Amended 2/10/2011)

105-7 Spacing

The spacing of street trees will be in accordance with the three species size classes as approved in Section 105-6 of this ordinance. No trees may be planted closer together than the following:

- Small Trees: 25 feet
- Medium Trees: 40 feet
- Large Trees: 50 feet

An exception may be made to the above spacing for special plantings depending upon the species, setting or purpose by the Streetscape Committee and as described in the Town of Middleburg Zoning Ordinance.

105-8 Distance from Curb and Sidewalk (See Middleburg Zoning Ordinance)

Street trees may be planted no closer than four feet from any curb or sidewalk. An exception may be made for special plantings if authorized by the Streetscape Committee.

105-9 Plantings near Street Corners and Fire Hydrants

No street tree shall be planted near street corners or curbs in such a way as to obstruct visual clearance in conformance with VDOT site clearance standards. No tree shall be planted within ten feet of any fire hydrant.

105-10 Plantings near Overhead Utilities

No street trees shall be planted near overhead utilities other than those species included in the Virginia Cooperative Extension publication 430-029. An exception may be made for special plantings if authorized by the Streetscape Committee.

105-11 Pruning Street Trees by Utility Companies

Except in an emergency situation as determined by the Town Administrator, public utility companies shall notify the Town Administrator or designee in writing prior to any pruning of any tree located on Town owned property or within a Town easement for the purpose of maintaining safe line clearance. Such work shall be performed in accordance with accepted arboricultural standards set forth by the International Society of Arboriculture.

(Amended 2/10/2011)

105-12 Planting, Maintenance and Removal

The Town shall have the right to plant, maintain and remove trees, plants and other woody ornamental or parts thereof on public property or within Town easements. The Town Administrator or designee, upon the recommendation of the Streetscape Committee, may remove or order to be removed any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines, or other public improvements, or limits access to sewers, fire hydrants, electric lines or other utility lines or pipes or any other public

improvements, or is affected with any injurious fungus, insect or other pest. A second opinion by an ISA certified arborist is recommended for the removal of any tree on public property or within Town easements that has a fifteen-inch (15") or greater diameter at breast height (dbh). In the event that any tree is pruned by the Town or its contractor, a certified arborist shall be required to be on site during such pruning. Trimming, pruning, removal or treatment of any tree on public property or within Town easements shall be consistent with the International Society of Arboriculture as outlined in the American National Standards Institute A300 and Z133.1 Standards. In the event a tree is severely damaged by storms or other causes and must be removed on an emergency basis, the Streetscape Committee will be notified so proper tree replacements can be recommended where appropriate.

This Section does not prohibit the planting of street trees within the road right-of-way by abutting property owners as a donation or contribution, provided the Town Administrator grants prior written approval, after a recommendation from the Streetscape Committee. The selection and location of said trees shall be in accordance with provisions of this ordinance, the Middleburg Zoning Ordinance and any other applicable Town regulation.

The Town may also allow right-of-way plantings, other than trees, provided the Town Administrator, upon recommendation of the Streetscape Committee, gives prior written permission. A written request to install right-of-way plantings shall be addressed to the Town Administrator.

(Amended 2/10/2011)

105-13 Tree Management Plan

A tree management plan is required within site development plans and subdivision applications as noted in the Middleburg Zoning Ordinance. The Streetscape Committee shall serve in an advisory capacity to the Town in the administration of the Town's landscaping, screening and open space regulations.

(Amended 2/10/2011)

105-14 Pruning of Privately Owned Trees

Every owner of any tree overhanging any public street or public right-of-way within the Town shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of fourteen feet (14') above the street surface or eight feet (8') above the sidewalk surface. Said owners shall remove all dead or diseased limbs which constitute a risk to public safety.

In the event any such tree is not pruned or removed as required in this section, a notice of intent to prune shall be sent by the Town Administrator or designee to the property owner by certified mail. The property owner will have sixty days from the date of the notice to comply. If compliance is not met within this time frame, the Town Administrator or designee may perform the pruning and charge the costs to the property owner by presenting evidence of the costs incurred to the property owner. The property owner shall then pay such costs within sixty days after the receipt of evidence of such costs.

105-15 Removal of Tree Stumps

Tree stumps located on public property shall be removed below the surface of the ground so that the top of the stump shall not project above the existing grade.

105-16 Acts Harmful to Trees on Public Property

(A) No person shall abuse, mutilate or otherwise damage any tree located on public property or any tree protected by this ordinance, including those street trees located along street frontages within a subdivision. However, nothing in this section shall be construed to prevent reasonable and proper trimming of trees located on public property by authorized persons in accordance with the accepted arboricultural standards set forth by the International Society of Arboriculture.

(B) No person shall attach any sign, notice, placard, electrical wire or other injurious device to any tree, nor shall any person cause any substance harmful to trees to come in contact with them, or prevent water or oxygen from reaching their roots. The use of tree-climbing spikes is prohibited except for removals or in emergencies.

(C) No person shall cover the ground with impervious material any closer to the trunk of a tree than its drip line. This provision may be waived by the Town Administrator or designee if it is determined that the proposed action will not harm the tree.

(D) Unless otherwise authorized in writing by the Streetscape Committee, it shall be unlawful as a normal practice for any person or firm to top any tree on public property. Trees severely damaged by storms or other causes, or certain trees under utility wires or other obstructions where other pruning practices are impractical may be exempted from this ordinance at the determination of the Streetscape Committee.

105-17 Dead or Diseased Tree Removal on Private Property

When the Streetscape Committee finds that a tree growing on private property creates an elevated risk to the public safety or welfare, they shall recommend to the Town Administrator that the owner be required to remove the tree or otherwise eliminate the hazardous condition. If the property owner fails to comply with such order within thirty days of notification from the Town Administrator by certified mail, or sooner if necessary to protect the public safety, the Town Administrator or designee may enter the property, remove the tree or otherwise mitigate the hazardous condition, and assess the cost thereof against the property owner.

105-18 Violations

Violations of this ordinance shall constitute a civil offense and be subject to fines up to \$2,500 for each violation. For purposes of this ordinance, each tree removed or harmed without meeting the provisions of the ordinance shall constitute a separate offense.

105-19 Enforcement

The Town Administrator or his designee is hereby charged with the responsibility to enforce this ordinance.

105-20 Liability

Nothing in this ordinance shall be deemed to impose any liability upon the Town, its officers or employees, or the Streetscape Committee or its members, nor to relieve the property owner of any private property from the duty to keep any tree or shrub on his property or under his control in such condition as to prevent it from constituting a hazard or an impediment to travel or vision upon any street, park or other public place within the Town.

105-21 Appeals

A. Decisions of the Town Administrator made with regard to Sections 105-14 and 105-17 may be appealed to the Town Council by filing a petition with the Clerk of Council, setting forth the basis for the appeal, within one week of the date of the decision. The appeal shall be placed on the next regularly scheduled Council meeting following receipt of the appeal. The filing of the appeal shall stay the decision of the Town Administrator pending the outcome of the appeal to the Council. The Council may reverse, modify or affirm the Town Administrator's decision.

B. The owner of the land that is the subject of a final decision of the Council may appeal such decision within thirty (30) days of the date of the final decision rendered by the Council by filing a petition at law with the Circuit Court of Loudoun County setting forth the alleged illegality of the action of the Council. The filing of the petition for review shall stay the decision of the Council pending the outcome of the appeal to the Circuit Court of Loudoun County.

(Amended 2/10/2011)

105-22 Severability

Should any subsection, sentence, clause, provision or part of this ordinance be held invalid for any reason, the remainder of this ordinance shall not be affected thereby, but shall remain in full force and effect.

(Amended 2/10/2011)

Chapter 113 WATER

ARTICLE I General Provision

113-5.1 Required connection with town's water supply system; private wells prohibited

...

(e) Property owners and tenants may continue to use existing private wells or other alternative water supply facilities for irrigation, agricultural and landscaping purposes.

Chapter 118 WEEDS AND DEBRIS

[HISTORY: Adopted by the Council of the Town of Middleburg Ch. 5, Art. III, Sec. 29, of the 1961 Code. Section 118-2 amended at time of adoption of Code. Amended in its entirety 09/13/12.]

118-2 Prohibited growth

The owner of any undeveloped or developed property, whether occupied or vacant, shall not permit grass, weeds or other foreign growth on such property or any part thereon to exceed ten (10) inches in height, excluding ornamental grasses, flowers, trees or, shrubs or for plantings associated with a bio-pond as shown on a landscaping plan as approved by the Streetscape Committee.

MIDDLEBURG ZONING ORDINANCE

ARTICLE II. BASIC DEFINITIONS

Section 17: Definitions of Basic Terms

The words and phrases defined in this section shall have the meaning indicated when used in this ordinance, unless otherwise specifically provided, or unless clearly required by the context.

...
(39) *Easement, Utility*. The right of a person, government agency, or public utility company to use public or private land owned by another for the specific purpose of providing utility services or locating utility service facilities thereon.

...
(50) *Greenbelt Open Space*. Open space designed to provide buffers and to protect scenic views as seen from existing roadways and from public spaces. (Added 9/13/01)

...
(80) *Open Space*. Areas of trees, shrubs, lawns, grass, pathways and other natural and manmade amenities not within individual building lots, set aside of the use and enjoyment of residents, visitors and other persons, unoccupied by buildings or facilities unless related to recreational activities. (Added 5/12/2006)

...
(87) *Recreational Uses, Passive*. Recreational uses (such as hiking, natural observation, and picnicking) not requiring constructed facilities, but making use of areas which are largely left in their natural state except for basic facilities such as benches, picnic tables and trails. (Added 5/12/2006)

...
(114) *Yard*. An area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures permitted by this ordinance.

(115) *Yard, Front*. A yard, extending across the full width of a front lot line between side lot lines and from the front lot line to the front building line in depth. Zoning Ordinance Town of Middleburg, Virginia II-11

(116) *Yard, Rear*. A yard extending across the full width of the lot and lying between the rear lot line and the nearest line of the building. The depth of the rear yard shall be measured at right angles to the rear line of the lot.

(117) *Yard, Side*. A yard extending from the front yard to the rear yard measured from and perpendicular to the side lot line.

(Amended 5/12/2006; amended 04/14/2013; amended 05/08/2014; amended 11/13/14; amended 12/10/15)

ARTICLE IX. AGRICULTURAL CONSERVANCY ZONING DISTRICT

Section 105.2: Conservancy Subdivision: Lot, Bulk and Open Space Requirements

...
(i) Additional Standards for Open Space

...
(3) Conservancy and greenbelt open space shall incorporate historic resources, prime agricultural soils, floodplain areas, wetlands, steep slopes, existing tree cover and other environmentally sensitive resources to the greatest extent possible.

Section 107: Design Standards – All Uses

...
(d) Street Design. Street layout shall take into consideration internal open space areas, gateways, and vistas. Both street and pedestrian linkages to the existing town are recommended where possible.

...

(4) Street trees shall be planted along all streets in conformance with Section 215.

...

Section 107.2: Additional Standards for Certain Special Exception Uses

Additional standards set forth below shall apply to certain specific uses permitted with a special use permit in this ordinance. These are intended to serve as the minimum standards for these uses, and are not intended to substitute for other applicable provisions of this ordinance or for additional conditions that may be imposed in connection with special exception approvals. All special exception uses shall also be subject to the design standards of Section 107 and 107.1.

...

(g) Rural Resort (Added 5/12/2006)

...

(13) Minimum Open Space: A minimum of 75% of the gross lot area shall be open space meeting the requirements of this subsection.

(i) Open space shall be configured to include all major floodplains, very steep slope land areas of 5,000 contiguous feet or more and wetlands located on the property. Additional land as needed to meet minimum open space requirements shall be designated as open space and shall be selected to add to the visual amenities of the rural resort and to minimize the impact of the resort facilities on surrounding areas and shall incorporate historic resources, prime agricultural soils, floodplain areas, wetlands, steep slopes, existing tree cover and other environmentally sensitive resources to the greatest extent possible.

...

ARTICLE XV. BUFFERING, SCREENING AND TREES

Section 208: Applicability

This article shall apply to all site plan and subdivision applications approved after the effective date of this ordinance. This article applies to the construction of any parking lot containing more than five parking spaces. This article shall apply to the enlargement of any parking lot resulting in more than five spaces but not to the resurfacing of an existing lot.

(Amended 02/10/05)

Part I. Buffering and Screening

Section 209: Purpose

(a) Minimal buffering and screening can provide an impression of separation of spaces and more extensive screening can shield entirely one use from another;
(b) Buffering and screening can provide a greater sense of privacy from visual or physical intrusion varying with the intensity of the screening;
(c) Buffering and screening can protect and enhance property values; and
(d) Buffering and screening protect the general health, safety and welfare of the town and its residents.

Section 210: General Buffering and Screening Standards

Every development shall provide sufficient buffering and screening so that neighboring properties are screened from any adverse effects of the development and the development is screened from any adverse effects of adjacent uses such as streets.

Section 211: Compliance with Buffering and Screening Standards

- (a) The following buffer yards shall be provided between various uses:
- (1) Commercial adjacent to residential: 15 feet
 - (2) Commercial adjacent to institutional: 10 feet
 - (3) Commercial adjacent to agricultural conservancy: 15 feet
 - (4) Multi-family residential next to single family, duplex, townhouses or commercial: 20 feet
 - (5) Residential adjacent to agricultural conservancy: 15 feet
 - (6) Institutional adjacent to residential: 15 feet
 - (7) Institutional adjacent to commercial: 10 feet
 - (8) Institutional adjacent to agricultural conservancy: 15 feet

A solid wall or fence at least six (6) feet in height may be used to reduce the required buffer yard by 50 percent, if the remaining yard can be effectively planted. (Amended 02/10/05)

(b) Buffer yards shall contain sufficient trees and shrubs to provide an opaque screen between uses. An opaque screen is intended to exclude all visual contact between uses and to create a strong impression of separation. In general, small trees planted at a rate of 1 tree per 30 feet or large canopy trees planted at a rate of 1 tree per 40 feet and 1 evergreen tree planted at a rate of 1 tree per 20 feet shall be deemed to meet the requirements of this section. Evergreen shrubs planted at a rate of 3 shrubs per 10 feet in buffer yards of 10 feet and doubled in buffer yards of 25 feet shall be deemed to meet the requirements of this section. Plants should be placed to achieve maximum screening from intensive use areas of adjoining properties. Existing vegetation, such as hedgerows and trees, may be used to satisfy the requirements of this Section.

(c) No required buffer yard shall exceed 10 percent of the lot area of the subject property, but in no instance shall the buffer yard be less than five feet.

Section 212: Flexibility in Administration Required

(a) The council recognizes that the buffering and screening requirements of this article cannot address every situation because of the wide variety of developments and the relationships between them. The council may permit deviations from the presumptive requirements of Section 211 whenever such deviations meet or exceed the standards contained in Section 210.

(b) Whenever the council allows or requires a deviation from the requirements of Section 211, it shall include the screening requirement on the zoning permit along with the reasons for allowing or requiring the deviation.

Part II. Trees

Section 213: Purpose

- (a) The preservation of existing trees and the planting of trees, shrubs and other vegetation reduces erosion and sedimentation;
- (b) Trees provide shade in summer and windbreaks in winter;
- (c) Trees restore soils and land cleared as a result of construction or grading;
- (d) Trees are proven producers of oxygen, an element necessary for human survival;
- (e) Trees are an invaluable physical, aesthetic and psychological counterpoint to the town setting; and,
- (f) Trees protect the general health, safety and welfare of the town and its residents.

Section 214: Preservation of Trees

- (a) Every development shall retain all existing, healthy trees at least 18 inches or more in diameter measured at three feet above the ground unless such retention would unreasonably burden the development.
- (b) No excavation, embankment, or other subsurface disturbance shall be undertaken within an area equal to one foot of horizontal distance for every inch of diameter of any tree 18 inches in diameter or greater and no impervious surface may be located within 12.5 feet of any such tree unless compliance with this section would unreasonably burden the development.
- (c) A development is unreasonably burdened if the proposed activities on a lot would have to be substantially altered to accomplish such retention and such alteration would result in an unreasonable hardship on the developer as determined by the council.
- (d) If the preservation of trees required in subsections (a) and (b) above results in the elimination of space that would otherwise be devoted to parking and, as a result, the parking requirements of Section 222 cannot be met, the number of parking spaces required may be reduced by the number of spaces "lost", up to a maximum of 15 percent of the required parking spaces.

Section 215: Street Tree Planting

Street trees shall be required along both sides of all newly constructed streets which are dedicated for public use. Street trees shall be planted in an area generally within 20 feet of the public right-of-way. The developer shall provide an average of at least one deciduous canopy tree for every 40 feet of street frontage. All trees shall have a minimum caliper of two inches when planted and a trunk at least 12 inches in diameter when fully mature.

Section 216: Parking Lot Landscaping

- (a) Perimeter Landscaping Adjacent to Public Street – 5 Spaces or More (Added 06/10/04)
- (1) A minimum ten-foot (10') wide perimeter landscape strip shall be provided between any parking lot and public right-of-way. If the perimeter landscaping strip is used for best management practices, such as a rain garden, the Commission upon the recommendation of the Town Engineer and Zoning Administrator may reduce the perimeter landscape strip to eight feet (8').
- (2) The perimeter strip shall include the following minimum landscape requirements (Amended 06/10/04):
- a. One (1) canopy tree per 30 linear feet (lf) of street frontage;
 - b. Two (2) ornamental trees per 30 lf of street frontage;
 - c. Canopy trees shall have a minimum caliper of 4 inches and be of a species selected from the Town of Middleburg Approved Tree/Shrub List;
 - d. Ornamental trees shall have a minimum caliper of 2 inches and be of a species selected from the Town of Middleburg Approved Tree/Shrub List;
 - e. Shrubs and ground cover shall be installed, as appropriate to planting size and species, to provide full coverage of the area and placed to complement tree landscaping. Invasive species are to be avoided. Maximum mature height of shrubs shall not exceed 4' so as not to impair automobile sight distance. The requirements of Section 215 may be met if in accordance with Section 216(a). (Amended 02/10/05).

- (b) Perimeter Landscaping Adjacent to Abutting Properties (Added 06/10/04)
- (1) A minimum five foot (5') wide perimeter landscape strip shall be provided between any parking lot and abutting properties. The landscape strip shall be a combination of shrubs, groundcover, fences, brick or stone walls, seat walls or planter boxes to provide a semi-opaque screen that has as minimum height of 30".
 - (2) The Commission may approve the perimeter landscape width to be a minimum of three feet (3') if two or more of the following conditions are met:
 - a. a semi-opaque screen is installed consisting of a stone or brick wall, planter boxes, seat walls, evergreen hedge or combination of these elements not less than 30" in height;
 - b. an existing durable barrier, such as a hedge or wall is located on the abutting property adjacent to the perimeter landscape strip;
 - c. the perimeter landscape strip is used for best management practices, such as a rain garden.
- (c) Interior Landscaping – 5 Spaces or More (Added 06/10/04)
- (1) A minimum of five percent (5%) of the interior parking lot area shall be landscaped. No landscaped area shall be less than 50 square feet. The landscaped area shall be planted at a rate of one tree and three shrubs per ten parking spaces. Each parking lot island shall contain a minimum of one canopy tree. For parking lots with less than 10 spaces, this requirement can be met by increasing the perimeter landscaping by the equivalent square footage. (Amended 06/10/04)
 - (2) The following interior landscaping requirements shall be provided for lots of 10 spaces or more:
 - a. One (1) landscape island per 10 parking spaces. Landscape islands shall be a minimum of 162 square feet (sf), with a dimension of not less than 9 x18;
 - b. Each landscape island shall contain one (1) canopy tree with a minimum caliper size of 4 inches and be of a species selected from the Town of Middleburg approved Tree/Shrub List;
 - c. Shrubs and ground cover in the landscape islands shall be installed, as appropriate to planting size and species, to provide full coverage of the area and placed to complement tree landscaping. Invasive species are to be avoided. Maximum mature height of shrubs shall not exceed four feet (4') so as not to impair automobile sign distance;
 - d. Landscaping materials shall be located within planting islands to allow for the mature size of the species and in a manner which will protect the plants from vehicles. Vehicles are presumed to have a body overhang of 3'6".
 - (3) The Commission may approve some or all of the required landscape islands to be aggregated provided that the aggregate total of internal landscaping shall equal or exceed the landscaped area otherwise required within the landscaped islands.
- (d) Other General Matters: (Added 06/10/04)
- (1) Parking lots shall be designed to prevent vehicles from striking trees. Vehicles are presumed to have a body overhang of three feet, six inches. (Amended 06/10/04)
 - (2) Berms shall have a maximum slope of 3:1 (Amended 06/10/04)
 - (3) The council may waive the requirements of this Section in any commercial district when such landscaped areas cannot be reasonably provided because of existing structures or other unique features of the central business area; provided, however, that if landscaping requirements are waived, the applicant

shall make an in lieu cash payment to the town in an amount equivalent to the cost of the landscaping so waived to be used by the Town solely for public landscaping purposes. (Amended 6/13/02, 06/10/04)
(Amended 06/10/04)

Sections 217: Approved Tree/Shrub Material (Added 06/10/04)

(a) Trees and shrubs included in the list in subsection 217 (d) may be used to satisfy the planting requirements of this article. The list is divided into the following categories: canopy trees, ornamental trees and shrubs. Selections must conform to the varieties and functions identified on this list unless an alternative is approved per subsection 217 (b).

(b) Any applicant may apply to the Zoning Administrator for approval of substitute plants for any plant listed on the Town of Middleburg Approved Tree/Shrub List. The Zoning Administrator shall refer such requests to the Streetscape Committee for review and recommendation. The Zoning Administrator shall approve or disapprove the substitute plant request within sixty (60) days of such application.

(c) The Streetscape Committee shall annually review the Town of Middleburg Approved Tree/Shrub List and recommend any changes to the Town Council, which shall refer the matter to the Planning Commission for hearing and recommendation in accordance with the provisions of this ordinance.

(d) Town of Middleburg Approved Tree/Shrub List: (Tree/Shrub List Begins on Following Page)

Canopy Trees

Common Name	Scientific Name	Height (ft.)	Spread (ft.)	Deciduous /Evergreen	NATIVE	Sun/ Shade	Special Features
Bald Cypress	Taxodium distichum	50-70	20-30	D	Yes	Sun	Long-living
Birch, River	Betula nigra 'Duraheat'	60-70	20-30	D	Yes	Sun	Exfoliating bark
Black Gum	Nyssa sylvatica	30-50	20-30	D	Yes	Sun	Good Fall color
Maple, Red	Acer rubrum	40-70	30-50	D	Yes	Sun	Good Fall color
Maple, Sugar	Acer saccharum	60-75	2/3 ht.	D	Yes	Sun	Legacy & Green Mountain cultivars recommended
Oak, Northern Red	Quercus rubra	60-75	=/> ht.	D	Yes	Sun	
Oak, Willow	Quercus phellos	40-60	30-40	D	Yes	Sun	Needs space, fast growing, small leaves, good shade
Oak, White	Quercus alba	50-80	=/> ht.	D	Yes	Sun	Needs space
Oak, Swamp White	Quercus bicolor	50-60	=/> ht.	D	Yes	Sun	Needs space
Oak, Chestnut	Quercus prinus	60-70	=/> ht.	D	Yes	Sun	Dry, rocky sites
Plane Tree, London	Platanus x acerifolia	75-100	75-100	D	Yes	Sun	
Sweetgum	Liquidambar rotundiloba	60-75	2/3 ht.	D	Yes	Sun	Fruitless variety
Dawn Redwood	Metasequoia glyptostroboides	70-100	25-30	D	No	Sun	Pyramidal habit, wet areas, requires space
Elm, Lacebark	Ulmus parvifolia	40-50	40-50	D	No	Sun	Recommend 'Allee'
Ginkgo	Ginkgo biloba	50-80	=/> ht.	D	No	Sun	Only male trees as fruit are messy
Golden Raintree	Koelreuteria paniculata	30-40	=/> ht.	D	No	Sun	Summer blooming
Hornbeam, European	Carpinus betula	40-60	30-40	D	No	Sun	Recommend 'Columnaris,' a good narrow habit.
Linden, Littleleaf	Tilia cordata	60-70	1/2 - 2/3 ht	D	No	Sun	Summer bloom
Linden, Silver	Tilia tomentosa	50-70	1/2 - 2/3 ht	D	No	Sun	Summer bloom, leaves have silver underside
Pagoda, Japanese	Sophora japonica	50-75	50-75	D	No	Sun	Blooms July – August, fine leaf
Zelkova, Japanese	Zelkova serrata	50-80	50-80	D	No	Sun	Vase shaped, ascending branches

Canopy Trees (continued)

Common Name	Scientific Name	Height (ft.)	Spread (ft.)	Deciduous /Evergreen	NATIVE	Sun/ Shade	Special Features
Arborvitae	<i>Thuja plicata</i>	50-70	15-20	E	Yes	Sun/P. Shade	Recommend 'Green Giant,' narrow, compact with good winter color
Cedar, Blue Atlas	<i>Cedrus atlantica</i>	40-60	30-40	E	No	Sun	Specimen use, bluish green foliage
Cedar, Deodora	<i>Cedrus deodora</i>	40-50	30-40	E	No	Sun	Specimen or grouping
Cedar of Lebanon	<i>Cedrus libani</i>	40-60	40-60	E	No	Sun	Specimen, wide spreading
Cryptomeria, Japanese	<i>Cryptomeria japonica</i>	50-60	20-30	E	No	S/PS	Conical, slow growing
Douglas-Fir	<i>Pseudotsuga menziesii</i>	40-80	12-20	E	No	Sun	Specimen use, better at this altitude/zone than Fraser Fir
Fir, White	<i>Abies concolor</i>	30-50	15-30	E	Yes	Sun	Drought and cold tolerant
Hinoki False Cypress	<i>Chamaecyparis obtuse</i>	50-75	30-40	E	No	S/PS	Pyramidal, useful specimen
Holly, American	<i>Ilex opaca</i>	40-50	18-40	E	Yes	S/Sh.	Pyramidal when young, requires male and female
Magnolia, Southern	<i>Magnolia grandiflora</i>	60-80	30-50	E	Yes	Sun	Waxy leaves, late spring flowering
Pine, Austrian	<i>Pinus nigra</i>	30-40	20-25	E	No	Sun	Beautiful but may be prone to disease
Pine, Limber	<i>Pinus flexilis</i>	30-50	15-30	E	Yes	Sun	Dark bluish green leaf
Spruce, Norway	<i>Picea, abies</i>	40-60	25-30	E	No	Sun	Pyramidal, Windbreak
Spruce, Serbian	<i>Picea omorika</i>	50-60	20-25	E	No	Sun	Protect drooping lower branches for full beauty

Ornamental Trees

Common Name	Scientific Name	Height (ft.)	Spread (ft.)	Deciduous /Evergreen	NATIVE	Sun/ Shade	Special Features
Buckeye, Red	<i>Aesculus pavia</i>	10-20	=/> ht.	D	Yes	Sun	Blooms June-July, single trunk only
Carolina Silverbell	<i>Halesia tetrapteria</i>	30-40	20-35	D	Yes	S/Sh	Moist soil
Dogwood, Flowering	<i>Cornus florida</i>	20-30	=/> ht.	D	Yes	S/Sh	Recommend 'Appalachian Spring', 'Aurora', 'Cloud Nine', and Rutgers Hybrids
Fringetree, White	<i>Chioanthus virginicus</i>	25-30	25-30	D	Yes	S/PS	Blooms summer, fragrant
Hornbeam, American	<i>Carpinus caroliniana</i>	20-30	20-30	D	Yes	S/PS	Good fall color
Magnolia, Sweet Bay	<i>Magnolia virginiana</i>	10-20	10-20	D	Yes	S/PS	Wet areas, summer bloom, fragrant flowers
Maple, Amur	<i>Acer ginnala</i>	15-20	=/> ht.	D	Yes	Sun	Small specimen tree
Paw Paw	<i>Asimina triloba</i>	15-30		D	Yes	PS	Mid-spring bloom, purple flowers
Redbud	<i>Cercis canadensis</i>	20-30	25-30	D	Yes	S/PS	Spring bloom. 'Forest Pansy' is purple leaf variety
Serviceberry, downy	<i>Amelanchier arborea</i>	15-20	Variable	D	Yes	S/PS	Recommend 'Autumn Brilliance'
Sourwood	<i>Oxydendrum arboreum</i>	25-30	20	D	Yes	Sun	Can be difficult to establish
Witchhazel, Common	<i>Hamamelis virginiana</i>	20-30	20-25	D	Yes	S/PS	Yellow flowers in autumn
Cherry, Flowering	<i>Prunus serrulata</i>	20-25	20-25	D	No	Sun	Recommend Kwanzan, Okame and Yoshino
Dogwood, Korean	<i>Cornus kousa</i>	20-30	20-30	D	No	S/PS	Spring bloom, exfoliating bark
Dogwood, Cornelian Cherry	<i>Cornus mas</i>	20-25	15-20	D	No	Sun	Blooms very early, yellow flowers
Maackia, Amur	<i>Maackia amurensis</i>	20-30	20-30+	D	No	Sun	Late summer flower
Magnolia, Star	<i>Magnolia stellata</i>	15-20	10-15	D	No	Sun	Early bloom, fragrant white flowers
Maple, Paper Bark	<i>Acer griseum</i>			D	No	Sun	Beautiful exfoliating bark, specimen use
Maple, Trident	<i>Acer buergeranum</i>	20-25	20-25	D	No	PS	Good small specimen
Snowbell, Japanese	<i>Styrax japonicus</i>	20-30	20-30	D	No	S/PS	Spring bloom
Arborvitae	<i>Thuja 'Emerald Green'</i>	15-20	4-5	E	No	Sun/	Pyramidal
Holly, American	<i>Ilex opaca</i>	40-50	15-20	E	Yes	Sun or Shade	Can be sheared to keep formal appearance & limit growth
Holly, Nellie Stevens	<i>Ilex x 'Nellie Stevens'</i>	15-25	10-15	E	Yes	Sun	Pyramidal, pretty leaf
Umbrella Pine	<i>Sciadopitys verticillata</i>	20-25	15-20	E	No	Sun	Pyramidal, unusual texture
Yew	<i>Taxus cuspidate capitata</i>	10-12	4-6	E	No	Sun or Shade	Slow growing

Shrubs

Common Name	Scientific Name	Height (ft.)	Spread (ft.)	Problem Free	NATIVE	Sun/Shade	Special Features
Abelia, Glossy	<i>Abelia x grandiflora</i>	3-5	3-5	Yes	No	Sun	Recommend 'Edward Goucher', 'Little Richard', 'Sherwood'; Blooms all summer
Boxwood, Littleleaf	<i>Buxus microphylla</i>	3-5	3-5	Yes	No	S/Sh.	Recommend 'Winter Gem' and 'Wintergreen'; slow growing
Buttonbush	<i>Cephalanthus occidentalis</i>	3-6	3-6	Yes	Yes	S/PS	Use in wet areas
Cherry Laurels	<i>Prunus laurocerasus</i>	4-8	3-6	Yes	No	S/Sh.	Recommend 'Otto Luykens' and 'Schipkaensis'
Dogwood, Red Osier	<i>Cornus sericea</i>	7-9	10+	Yes	Yes	S/Sh.	Prefers wet soils, red twigs
Dwarf Fothergilla	<i>Fothergilla gardenii</i>	2-3	3-4	Yes	Yes	PS	Fragrant white flowers, good fall color
Hydrangea	<i>Hydrangea macrophylla</i>	3-6	4-6	Yes	No	S/PS	Summer bloom
Hydrangea, Lacecap	<i>Hydrangea mortensias</i>	3-6	4-6	Yes	No	S/PS	Summer bloom
Hydrangea, Oakleaf	<i>Hydrangea quercifolia</i>	4-6	4-6	Yes	No	Shade	Provide room for spread
Leatherleaf Mahonia	<i>Mahonia bealei</i>	6-10	5-8	Yes	No	Shade	Large berries
Lilac	<i>Syringa vulgaris</i>	3-5	4-5	Yes	No	Sun	Recommend 'Miss Kim', 'Dalbin'
Oregon Grape Holly	<i>Mahonia aquifolium</i>	3-6	3-5	Yes		Shade	Glossy green leaf, dark blue berries
Pieris, Japanese	<i>Pieris japonica</i>	9-12	6-8	Yes	No	Shade	Evergreen, early bloom
Shamrocks Holly	<i>Ilex glabra</i> 'Shamrock'	3-4	3-4	Yes	No	S/PS	(also called Inkberry), Evergreen, wet areas, deer resistant
Skimmia	<i>Skimmia japonica</i>	3-4	3-4	Yes	No	PS	Evergreen, fruit, small
Summersweet	<i>Clethra alnifolia</i>	3-8	4-6	Yes	Yes	Shade	Attract hummingbirds; select smaller varieties, wet soil.
Sweet Box	<i>Sarcococca hookeriana</i> var. <i>humilis</i>	4-6 (In.)	Spread	Yes	No	Shade	Good evergreen ground cover, fragrant
Viburnum, Arrowwood	<i>Viburnum dentatum</i>	6-8	6-15	Yes	No	Sun	Spring flower
Viburnum, Blackhaw	<i>Viburnum prunifolium</i>	12-15	8-12	Yes	No	Sun	Small tree
Viburnum, Burkwood	<i>Viburnum x burkwoodii</i>	8-10	2/3	Yes	No	Sun	Fragrant
Viburnum, Korean Spice	<i>Viburnum carlesii</i>	4-5	3-5	Yes	No	S/PS	Very fragrant flowers
Viburnum, Lindenwood	<i>Viburnum dilatatum</i>	8-10	2/3	Yes	No	Sun	Spring flower
Virginia Sweetspire	<i>Itea virginica</i>	3-5		Yes		Shade	Recommend 'Henry Garnet', Red Fall color
Winterberry	<i>Ilex verticillata</i>	6-10		Yes	Yes	Sun	Recommend 'Harvest Red', 'Red Sprite' and 'Sparkleberry'; requires male and female
Winter Daphne	<i>Daphne odora</i>	4	4		Yes	Shade	Mounded with winter flowers
Yew	<i>Taxus</i> spp.						Many cultivars, all shapes and sizes, good drainage required

MIDDLEBURG SUBDIVISION ORDINANCE

ARTICLE 2 Definitions

Unless otherwise expressly stated, the following terms shall, for the purposes of this ordinance, have the meaning herein indicated.

Easement: A right-of-way granted for limited use of private land for a public or quasi-public purpose and within which the owner of the property shall not erect any permanent structures other than those approved for purposes of the easement.

Yard: An area on the same lot with a building or group of buildings, lying between the building or building group and the nearest lot line, unobstructed from the ground upward and unoccupied except by specific uses and structures permitted by the zoning ordinance.

ARTICLE 4 Subdivisions and Construction Plans

4.2.4 Preliminary Plat Submission Requirements

...

B. All preliminary plats shall contain the following information:

...

(22) Delineation of existing tree cover and plans for tree protection. All trees with a diameter at breast height (dbh) of 18 inches or greater shall be specifically identified on the plat.

...

ARTICLE 5 Site Plans

5.3.5 Site Plan Submission Requirements

...

B. The site plan shall be clearly and legibly drawn on numbered sheets 24 by 36 inches in size and shall include:

...

(20) Location of existing tree cover and plans for tree protection. All trees with a diameter breast height (dbh) of 18 inches or greater shall be specifically identified on the plan.

...

ARTICLE 7 Required Improvements

7.6 Landscaping Requirements

7.6.1 Existing tree cover within the proposed subdivision or development shall be retained in accordance with the Middleburg or Loudoun County Zoning Ordinance, as applicable, and taken fully into account in the design of the subdivision lots, street layout and development in accordance with the Middleburg or Loudoun County Zoning Ordinance, as applicable. Plans shall indicate how existing trees are to be protected and how soil aeration, drainage and moisture are to be preserved.

7.6.2 Street trees and other plant material may be planted within public rights-of-way in accordance with plans approved by the administrator to meet the required specifications for landscaping in the Middleburg or Loudoun County zoning ordinance, as applicable. Required specifications for landscaping, street trees and street tree plantings shall designate the number, location, size, variety and condition of trees and other plant materials to be planted, as well as the planting methods. The

specifications shall take into account the relative hardiness, shape, root-growth pattern, and undesirable features of plant materials and shall provide restrictions on plantings in locations likely to damage underground or aerial utility facilities, restrict motorists' or pedestrians' sight distances, conflict with driveways, sidewalks, bikeways or streets, or damage streets, sidewalks, storm sewers, sanitary sewers, curb and gutter and other required facilities. (Amended 1/21/99)

7.6.3 All cut and fill slopes shall be landscaped, either seeded and stabilized, or sodded with grass or plants suitable for such slopes, in accordance with the latest edition of the Virginia Erosion and Sediment Control Handbook.