

ARTICLE 10

USES WITH ADDITIONAL STANDARDS AND SPECIAL USES

(amended May 10, 2016, April 10, 2018, February 12, 2019, April 11, 2023)

(amended June 30, 2021 to comply with NCGS 160D)

10.1 Uses With Additional Development Standards

10.1-1 Purpose. Certain uses provide services and benefits for residents of and visitors to the Town of Midland. The convenient location of these uses is necessary to their success and the function of the community. Due to the potential impacts of these uses, certain additional standards are necessary to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require additional standards and establishes the standards they must meet.

10.1-2 Standards Established. The following Uses with Additional Standards and the standards they must meet are hereby established.

These uses are symbolized within Table 8.1, appearing at the end of Article 8 of this Ordinance, by the letter “S” and followed by the subsection number within parenthesis for assistance in locating applicable standards unique to the use.

10.1-3 Accessory Dwelling Units

A. Zoning Districts. AG, MFO, SFR, R/MST, R/OMT, MSP, OMP, MS, OM, CIV, and TNDO

B. Development Standards.

(1) One (1) *Accessory Dwelling Unit* shall be permitted only on a lot containing a single dwelling unit (the principal dwelling) and conforming accessory structures in any single family zoning district.

(2) The *Accessory Dwelling Unit* shall not be considered a separate unit for the purpose of determining minimum lot size or maximum density.

(3) Home occupations shall not be located within the *Accessory Dwelling Unit*.

(4) The maximum gross floor area for the *Accessory Dwelling Unit* shall be 900 SF or 40% of the gross floor area of the principal structure, whichever is greater. Variances shall not allow the gross floor area of the *Accessory Dwelling Unit* to exceed 1200 SF nor shall the size of the *Accessory Dwelling Unit* exceed 50 percent of the gross floor area of the principal dwelling unit.

(5) The *Accessory Dwelling Unit* may be located within same structure as the principal dwelling unit or it may be a separate structure. If within the same structure as the principal dwelling unit, the *Accessory Dwelling Unit* may have a separate entrance. If the *Accessory Dwelling Unit* is located in a separate structure, the following standards shall apply:

a. The accessory structure housing the *Accessory Dwelling Unit* must be located behind the principal dwelling. On corner lots, the accessory structure housing the *Accessory Dwelling Unit* may be located on the

- corner street side of and behind the principal dwelling, but must be oriented to the front street (same orientation as principal dwelling).
- b. Vehicular access to the *Accessory Dwelling Unit* shall be via the same drive that provides access to the principal structure unless the *Accessory Dwelling Unit* is located on a corner or through lot. If located on a corner or through lot, a secondary drive may provide access to the *Accessory Dwelling Unit* but the secondary drive shall not be on the same street as the drive providing access to the principal dwelling.
- (6) One (1) parking space shall be provided for the *Accessory Dwelling Unit*. The parking space shall be located in the same area as the parking provided for the principal dwelling unit unless the lot is a corner or through lot and a separate drive provides access to the *Accessory Dwelling Unit*.
 - (7) The design and construction of the accessory structure housing the *Accessory Dwelling Unit* shall be compatible with the design and construction of the principal dwelling unit. To ensure compatibility, the following standards shall be met:
 - a. The design of the accessory structure housing the *Accessory Dwelling Unit* shall be of the same architectural style as that of the principal dwelling unit.
 - b. The roof style and pitch of the accessory structure housing the *Accessory Dwelling Unit* shall be the same as that of the principal dwelling unit.
 - c. The exterior building materials used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as those used for the principal dwelling unit. When the principal dwelling unit is predominantly brick or stone, the use of smooth wood or fibrous cement siding for the accessory structure housing the *Accessory Dwelling Unit* is appropriate to reinforce the ancillary and secondary nature of the *Accessory Dwelling Unit*.
 - d. Windows and doors used for the accessory structure housing the *Accessory Dwelling Unit* shall be the same style and design as those used for the principal dwelling unit. Window and door placement (fenestration) on the accessory structure housing the *Accessory Dwelling Unit* shall mimic that of the principal dwelling unit.
 - e. Exterior paint colors for the accessory structure housing the *Accessory Dwelling Unit* shall be the same as (or complementary to) those for the principal dwelling unit.
 - (8) The use of manufactured dwellings, mobile homes, travel trailers, campers, or similar units as an *Accessory Dwelling Unit* is prohibited.
 - (9) The *Accessory Dwelling Unit* shall not be deeded and/or conveyed to separate and/or distinct ownership separately from the principal dwelling unit.

10.1-4 Automobile/Boat/Truck Repair Service and/or Tire Sales.

A. Zoning Districts. OM, C 24/27, C 601, and IND

B. Development Standards.

- (1) Vehicles awaiting repair shall not be parked in front of the building.
- (2) No work areas are to be located in front of building.

- (3) All work areas shall be screened from adjacent uses with a six (6) foot tall opaque fence and a type D buffer (per Article 11); plantings shall be on the exterior side of the fence.

10.1-5 Automobile Towing and Storage Service.

A. Zoning District. IND

B. Development standards.

- (1) No more than 30 automobiles shall be stored at an automobile towing and storage service at a time.
- (2) The automotive storage area must be screened with a six foot tall opaque fence and a type C buffer (per Article 11); plantings shall be on the exterior side of the fence.
- (3) No outdoor disassembly or salvaging is permitted.

10.1-6 Bank, Savings and Loan, Credit Union.

A. Zoning Districts. MSP, OMP, MS, OM, C 24/27, C 601 and TNDO

B. Development standards.

- (1) Drive-through facilities shall be located at the rear of the building.
- (2) No more than 1 drive-through service windows and/or automated service devices shall be permitted.
- (3) Drive-through facilities shall be screened from adjacent uses with a type D buffer (per Article 11).
- (4) ATM may be located at side or front of building only if a walk-up facility.
- (5) Multiple lanes may be established when all buffering on adjacent property lines are increased by 100%.

10.1-7 Batting Cages, Outdoor.

A. Zoning Districts: C 24/27, C 601 and OMP

B. Development standards:

- (1) Fencing, netting, or other control measures shall be provided around the perimeter of the batting area to prevent balls from leaving the area.
- (2) Hours of operation 7:00 AM – 10:00 PM, including cage lighting.

10.1-8 Bed-and-Breakfast Inn (Tourist Home).

A. Zoning Districts: AG, MFO, R/MST, R/OMT, MSP, OMP, MS, OM and TNDO

B. Development Standards

- (1) *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) shall be located a minimum of 500 feet from other *Bed-and-Breakfast Inn* establishments (*Tourist Homes*). In calculating the 500 foot distance between *Bed-and-Breakfast Inn* establishments (*Tourist Homes*), measurements shall be taken from the closest property line of the existing *Bed-and-Breakfast Inn* establishment (*Tourist Home*) lot to the closest property line of the lot of the proposed *Bed-and-Breakfast Inn* establishment (*Tourist Home*). Existing, legally established *Bed-and-Breakfast Inn* establishments (*Tourist Homes*) that do not meet this separation requirement of 500 feet

are permitted to expand within the subject property to the maximum limits allowed under this chapter, as long as all applicable development standards are met.

- (2) The owner shall reside on the property a majority of the calendar year.
- (3) The minimum lot area for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be 20,000 square feet.
- (4) The maximum number of guest rooms provided by the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be eight.
- (5) Accessory structures shall not be utilized for guest accommodation purposes as part of a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (6) Passive recreation-related outdoor activities such as tea-time are permitted outside the principal structure or any accessory structure(s), but all other activities and functions designed to serve and entertain guests shall take place only within the principal structure on properties of one acre or less.
- (7) The length of stay of any guest shall not exceed thirty (30) successive calendar days, with a minimum interval between stays of ninety (90) days.
- (8) No home of less than 3,000 heated square feet shall be used for a *Bed-and-Breakfast Inn* establishment (*Tourist Home*).
- (9) Off-street parking shall be provided as required by Article 12 of this Ordinance. Parking shall be located on the same lot on which the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) is located, at the rear of the lot and screened with a type C buffer (per Article 11) from adjacent properties and from the street.
- (10) Signage shall be limited to a single *Pole Sign*, subject to the regulations of Article 17. The sign shall be located in the front yard and, if lit, shall be indirectly lighted.
- (11) Exterior lighting shall be residential in nature and shall not be directed towards adjacent properties; furthermore, light fixtures shall be no greater than 12' above finished grade and of the "open traditional" design to shed lighting downward and away from all adjacent windows and doors.
- (12) Activities and functions at the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall be provided for overnight guests only and shall be limited to breakfast and an afternoon and/or evening refreshment. No commercial activities other than providing lodging for registered guests shall be permitted.
- (13) The construction and operation of the *Bed-and-Breakfast Inn* establishment (*Tourist Home*) shall comply with N.C. State Building Code requirements.

10.1-9 Car Wash.

A. Zoning Districts: C 24/27, C 601, and IND

B. Development Standards:

- (1) Building(s) shall be at least 75 feet from any interior side or rear property line which adjoins property zoned for residential or mixed use. A minimum six foot high opaque fence and a type B buffer (per Article 11) shall be

provided adjacent to all property zoned for residential uses, with the plantings on the exterior side of the fence. Dumpsters shall be enclosed by eight (8) foot minimum height, measured above grade, decorative masonry on three sides with operable and secure gates to secure and screen opening/access side.

- (2) All washing operations shall be contained in a building.
- (3) Specific areas shall be provided for the manual drying, waxing, polishing and vacuuming of vehicles where these services are offered on the site. These areas shall not conflict with on-site circulation patterns.
- (4) The outdoor service area of a car wash shall be placed and screened in accordance with the standards for on-site parking.
- (5) Hours of operation shall be between 8:00 a.m. and 8:00 p.m. when directly adjoining developed residentially zoned property.
- (6) Adequate provision shall be made for the safe and efficient disposal and/or recycling of waste products and runoff.

10.1-10 Cemetery or Mausoleum.

A. Zoning District: AG, MFO, C 24/27, and C 601

B. Development Standards:

- (1) A minimum of three (3) contiguous acres shall be required to establish a cemetery or mausoleum not located on the same tract of land as a church.
- (2) Principal access must be from a collector street or higher capacity street.
- (3) Tombstones, crypts, monuments, burial plots and mausoleums must be located at least 25 feet from any street right-of-way or 16 feet from abutting property.
- (4) Buildings for maintenance, management, rent and/or sale of cemetery plots must conform to a building type permitted in the zoning district.

10.1-11 Religious Institutions.

A. Zoning District: AG, MFO, SFR, R/MST, R/OMT, MSP, OMP, MS, OM, CIV, C 24/27, C 601, IND, and TNDO

B. Development Standards:

- (1) Churches, synagogues, and other places of worship shall meet the standards for civic building and lot types.
- (2) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.
- (3) *Accessory Dwelling Units* for persons associated with or employed by the church, synagogue, mosque, or place of worship may be provided at a ratio of 1 unit for each 1 acre of site; these limits do not apply to the placement of convents, rectories, parsonages or similar uses on the site.
- (4) Accessory uses such as religious institution offices, religious bookstores serving the immediate congregation, parking lots, family life centers, multi-purpose facilities, outdoor recreational facilities, cemeteries, mausoleum, schools, and day care centers on the same site or sites contiguous to the principal use shall be permitted wherever religious institutions are permitted

and shall meet the civic building and lot type, or another building and lot type permitted in the zoning district. Similar uses on non-contiguous sites or on a site separated from the principal use by a public street shall be considered principal uses in their own right and be regulated as such. Tombstones, crypts, monuments, burial plots and mausoleums in accessory cemeteries shall be located at least 25 feet from any street right-of-way or 16 feet from abutting property.

- (5) Religious institution accessory uses, which are not permitted as principal uses in a zoning district, shall not display merchandise visible from outside the building.
- (6) Except as noted in subsection 10.1-11(B)4., above, accessory uses not permitted as principal uses (including television stations, radio stations, and/or sports complexes) are prohibited. This provision shall in no way restrict accessory use family life centers and multipurpose facilities, a part of whose function may include recreation and sports activities.
- (7) Application for a zoning permit shall include a comprehensive site plan that addresses the required standards for the main site and all abutting holdings unless deemed un-necessary by the *Planning, Zoning and Subdivision Administrator*.

10.1-12 Club or Lodge.

- A. Zoning Districts: AG, MSP, OMP, MS, OM, CIV, C 24/27, C 601 and TNDO
- B. Development Standards
 - (1) Building(s) must conform to a building type permitted in the zoning district.
 - (2) Activities and events at the club or lodge shall occur between the hours of 8:00 AM and 12:00 Midnight
 - (3) Access shall be from a collector or higher capacity street.

10.1-13 Country Club with Golf Course.

- A. Zoning Districts: AG, SFR, CIV, C 24/27, C 601 and TNDO
- B. Development Standards:
 - (1) Building(s) must conform to a building type permitted in the zoning district.
 - (2) Parking shall be screened from residential uses and/or districts with a type C buffer (per Article 11).
 - (3) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.
 - (4) No outdoor activity shall continue past the hour of 10:00 PM.

10.1-14 Day Care Center for Children or Adults (6 or more).

- A. Zoning Districts: AG, MSP, OMP, MS, OM, CIV, C 24/27, C 601, TNDO and as an *Accessory Use* in the IND
- B. Development Standards
 - (1) A *Day Care Center* must meet a permitted building and lot type for the district in which it is to be located.

- (2) *Day Care Centers* for children must provide play space in accordance with the regulations of North Carolina Department of Human Resources. The outdoor play space must be enclosed on all sides by building, and/or permitted types of walls or fences; it may not include driveways, parking areas, or land otherwise unsuited for children's play space; play space may not be in the established front yard.
- (3) There is no limit on the hours of operation of a *Day Care Center*, but it shall not serve any client on a continuous 24-hour basis.

10.1-15 Day Care Center, Home Occupation for less than 6 persons.

A. Zoning Districts: AG, MFO, SFR, R/MST, R/OMT, MSP, OMP, MS, OM, CIV, C 24/27, C 601 and TNDO

B. Development Standards:

- (1) The *Day Care Center, Home Occupation* operation must be located within the residential dwelling unit occupied by the operator of the service. Preschool instruction and daytime care is limited to 6 persons not related to the operator.
- (2) *Day Care Center, Home Occupations* for children shall provide play space must in accordance with the regulations of the North Carolina Department of Human Resources.
- (3) Outdoor play space must be fenced or otherwise enclosed on all sides and may not include driveways, parking areas, or land otherwise unsuited for children's play space; it is prohibited in any established building setback from a street.
- (4) No chain link fences shall be permitted in the front yard. Chain link and similar fencing materials located in the side and rear yards shall be planted on the exterior side with evergreen shrubs minimum 3 feet in height and 6 feet on center at installation, or be obscured by a comparable screening treatment.
- (5) A *Day Care Center, Home Occupation* must be clearly incidental to the residential use of the dwelling and must not change the essential residential character of the dwelling; all building and lot standards for residential dwellings shall be maintained.
- (6) There are no specific limitations on the hours of operation of a *Day Care Center, Home Occupation*, but no outdoor play shall be permitted twenty minutes after sun-set.
- (7) Day Care Center, Home Occupations located within the SFR, R/MST, and/or R/OMT districts shall operate only within the hours of 6:00AM-9:00PM local time.

10.1-16 Dormitories

A. Zoning District: CIV

B. Development Standards:

- (1) Must be located on the campus of secondary or post-secondary school.
- (2) The dormitories must be administered and/or managed by the secondary or post-secondary school on whose campus they are located.
- (3) Buildings shall comply with the building type standards permitted in the

Civic District.

10.1-17 Drive-Through Window as Accessory Use. (amended May 13, 2014)

A. Zoning Districts: MSP, OMP, MS, OM, CIV, C 24/27, C 601 and TNDO

B. Development Standards:

- (1) Drive-through service window, stacking lane(s), and circulation are prohibited in the established front setback of the principal building, or in an established side yard which abuts a street.
- (2) Drive-through service window, stacking lane(s), and circulation are treated as components of on-site parking for the purposes of buffering.
- (3) The length of on-site stacking lane(s), taken together, shall be a maximum of 200 feet if window access is provided directly from a major or minor arterial; a maximum of 100 feet if window access is provided directly from a street of lesser capacity.
- (4) The drive-through lane(s) must be distinctly marked by special striping, pavement markings, or traffic islands. A separate circulation drive must be provided for passage around and escape from the outermost drive-through service lane.
- (5) Buffering is not required for walk-up service accessories such as depositories and ATM's.
- (6) One drive-through service window and/or automated service device may be permitted.
- (7) Drive-through service windows and/or automated devices shall be mitigated by the provision of eight (8) electric vehicle charging devices per window and/or device to mitigate the air quality impact of a motor vehicle at idle.
 - a. Required electric vehicle charging devices may be cooperatively installed in a multi-tenant development, where circulation throughout the development is well-designed so as to facilitate shared parking between businesses. Cooperative installations shall be placed in such a manner that they are well distributed and accessible to the majority of businesses within the multi-tenant development. In the case of varying densities, charging stations shall be installed so that the greatest number of stations serves the highest traffic generating locations. The provisions of this arrangement and responsibility for the stations shall be clearly detailed and agreed upon in the cross-access agreement creating the cooperative parking between parcels of separate ownership. It shall be the duty of the business containing drive-through access window to ensure the development meets the required number of electric vehicle charging devices.

10.1-18 Golf Course (see 10.1-13 Country Club with Golf Course).

10.1-19 Golf Driving Range.

A. Zoning Districts: AG, C 24/27, C 601 and as an Accessory Use in the TNDO

B. Development Standards:

- (1) Fencing, netting, or other control measures shall be provided around the perimeter of the driving range to prevent balls from leaving the area unless on site buffering is provided to prevent balls from entering any adjacent and/or occupied and/or improved property.
- (2) Hours of operation limited to within the hours of 6:00AM-11:00PM local time.

10.1-20 Go-Cart Raceway.

A. Zoning District: IND

B. Development Standards:

- (1) A minimum separation of 30 feet, fully vegetated, shall be provided between any use area and any abutting property line. The vegetation shall form a permanent semi-opaque screen between the use area and adjacent property.
- (2) Any use area shall be located a minimum of 200 feet from any residential or mixed use district.
- (3) The site shall be screened from view at street(s) within 200 feet of the use area by a masonry wall or a solid wood fence, planted on the exterior side with a semi-opaque vegetative screen with expected height of at least 8 feet at maturity; if security fencing of chain link or similar material is provided, it shall be placed on the interior side of the vegetation and wall or fence.
- (4) The hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.

10.1-21 Home Occupation.

A. Zoning Districts: AG, MFO, SFR, R/MST, R/OMT, MSP, OMP, MS, OM, CIV, C 24/27, C 601, IND and TNDO

B. Development Standards:

- (1) No display of goods, products, or services, or other advertising shall be visible from outside the dwelling, except that home occupations shall be allowed one pole sign in accordance with the provisions of Article 17, and such sign shall not be illuminated.
- (2) Home occupations shall be principally conducted by residents of the dwelling. However, a maximum of one full-time equivalent non-resident of the dwelling may be employed as part of the home occupation.
- (3) On premise retail sales shall not be a component of the home occupation.
- (4) A maximum of 25 percent of the gross floor area of the dwelling unit may be used for the home occupation. If the home occupation is housed in an accessory structure, the square footage of the accessory structure shall not exceed 25 percent of the square footage of the principal structure (home).
- (5) Only one vehicle principally used in connection with the home occupation shall be parked or stored on premise. Such a vehicle shall not display any signage designed to be visible beyond the property boundaries. Such a vehicle shall not be parked in a conspicuous place and stored in a conforming on-site parking space meeting the provisions of Article 12.

- (6) No equipment or process shall be used in connection with the home occupation that creates noise, vibrations, glare, fumes, odors, or electrical interference off premises.
- (7) In addition to required parking as stipulated in Article 12, one additional off street parking space shall be provided for use in conjunction with the home occupation.
- (8) Instruction in music, dancing, art, or similar subjects shall be limited to no more than five (5) students at one time, provided activities are limited to the hours of operation between 6:00AM-9:00PM local time.
- (9) The home occupation shall not materially increase the traffic that is found in its vicinity when the use is not in operation. Pursuant to this, a maximum of six individuals per day may visit the home occupation with the exception of the instruction occupations addressed in 10.1-21.B(8) above.

10.1-22 Junked Motor Vehicle Storage as Accessory Use.

- A. Zoning Districts: AG, MFO, SFR, R/OMT, OMP, OM, C 24/27, C 601, and IND
- B. Development Standards:
 - (1) Any vehicle meeting the definition of "motor vehicle, junked" shall be stored or placed in the side or rear yard of the property in such a manner so as to be totally screened from view from any street and/or from any adjacent residential, mixed use, or civic zoned property. Total screening shall be provided by placement of the vehicle behind a building and/or by plant materials, fences, berms, or a combination thereof with a minimum height of six (6) feet.
 - (2) Open storage of more than one such vehicle shall require classification as a junkyard, salvage yard, auto parts use and shall meet the conditions for such use as set forth elsewhere in this Article.
 - (3) More than one such vehicle may be stored within a completely enclosed building.

10.1-23 Kennels or Pet Grooming with Outdoor Pens or Runs.

- A. Zoning Districts: AG, MFO, C 24/27, C 601 and IND
- B. Development Standards:
 - (1) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 250 feet from abutting property located in a residential or mixed use district.
 - (2) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed use district with a type B buffer (per Article 11).

10.1-24 Multi-Family Development in Single Family Area.

- A. Zoning Districts: R/MST, MSP (8 or less only), OMP (8 or less only), MS (8 or less only), TNDO
- B. Development Standards:

- (1) The multi-family development shall not exceed a total of seventy-two (72) dwelling units
- (2) The maximum permitted density for the multi-family development shall be twenty-four (24) units per acre.
- (3) The permitted building and lot types for the multi-family development in a single family area shall be the detached house and the attached house building and lot types.
- (4) All parking for the multi-family development shall be located behind the building. The parking area shall be screened from adjacent properties and from the street with a minimum of a type C buffer (per Article 11).
- (5) The buildings in the multi-family development shall be architecturally compatible with single family structures on the street on which the multi-family building is proposed. Elements that shall be incorporated into the design of the multi-family building to ensure architectural compatibility are:
 - a. The multi-family building shall be constructed of building materials similar to those used on single family structures on the street.
 - b. The roof pitch of the multi-family building shall be the same as that of the single family structures on the street.
 - c. The fenestration of the multi-family building by location and size of windows and doors shall be similar to that of the single family homes on the street.
 - d. Color renderings of the proposed building must be submitted with the application to ensure architectural compatibility.
- (6) No multi-family building shall be located closer than 48 feet to an existing multi-family building. The distance shall be measured along centerline of streets from the edge of the property proposed for development to the closest edge of the property on which the existing multi-family building or development is located.
- (7) Notification of TRC meetings at which multi-family developments will be considered shall be provided to owners of all properties located within 250 feet of the property for which the development is proposed.

10.1-25 Nursing Home, Assisted Living.

- A. Zoning District: AG, MSP, OMP, MS, OM, CIV, C 24/27, C 601 and TNDO
- B. Development Standards:
 - (1) The facility shall provide centrally located shared food preparation, food service, and dining areas.
 - (2) Common recreation, social, and service facilities shall be provided at a minimum rate of thirty (30) square feet per dwelling unit or per rooming unit.
 - (3) All facilities shall be solely for the use of residents and their guests.
 - (4) Facilities for administrative services and limited medical services for the exclusive use of the resident shall be located on the site.

10.1-26 Parks and Recreation Facilities, Public.

- A. Zoning Districts: AG, MFO, SFR, R/MST, R/OMT, MSP, OMP, MS, OM, CIV, C 24/27, C 601 and TNDO
- B. Development Standards:
 - (1) Overflow (un-paved) parking (in addition to required parking) must be designed on the site plan and be kept available to handle all traffic from special events such as softball tournaments and outdoor concerts.
 - (2) All parks greater than ten (10) acres shall have primary access to a collector or higher capacity street.
 - (3) Lighting, with the exception of lighting for ball fields and tennis courts, shall be full cut-off fixtures.
 - (4) Illumination for ball fields and tennis courts shall be limited to the hours of 8:00AM-11:00PM local time.

10.1-27 Special Events and Temporary Structures.

- A. Zoning Districts: See Article 15
- B. Development Standards: See Article 15

10.1-28 School, Elementary or Secondary.

- A. Zoning Districts: CIV, and TNDO
- B. Development Standards:
 - (1) Minimum lot size:
 - a. Kindergarten (only): One acre.
 - b. K-12: Two acres.
 - (2) Minimum setback standards:
 - a. Front: Twice that for permitted uses in the respective zoning district.
 - b. Side: 25 feet
 - c. Rear: 25 feet.
 - (3) Building type shall be civic building.
 - (4) Parking and active recreation areas shall not be located within the required building setbacks.
 - (5) Primary access shall be provided from arterial or collector streets. Local residential streets shall not be used for primary access.
 - (6) Site lighting shall be full cut-off fixtures.

10.1-29 Swim and Tennis Club.

- A. Zoning Districts: AG, SFR, MSP, OMP, CIV, C 24/27, C 601 and TNDO
- B. Development Standards:
 - (1) The minimum area shall be two (2) acres. The minimum area shall be one (1) acre if located as part of a common area within a development.
 - (2) There shall a minimum fifty (50) foot separation (distance) between clubhouse, swimming pool, lighted tennis court, or athletic field and any adjacent residentially-zoned property.
 - (3) Outdoor swimming pools shall be protected by a fence, or equal enclosure, a minimum four (4) feet in height and equipped with a self-closing and positive self-latching gate provided with hardware for permanent locking.

- (4) Site lighting shall be full cut-off fixtures. If proof is provided that such lighting is inadequate for the tennis courts, the *Planning, Zoning and Subdivision Administrator* may approve other lighting for the tennis courts only.

10.1-30 Temporary Structures.

- A. Zoning Districts: See Article 15
- B. Development Standards: See Article 15

10.1-31 Veterinary Service with Outdoor Kennels.

- A. Zoning Districts: AG, C 24/27, C 601 and IND
- B. Development Standards:
 - (1) The pens, runs, and/or other facility for the outdoor containment of animals shall be at least 250 feet from abutting property located in a residential or mixed use district.
 - (2) The pens, runs, and/or other facility for the outdoor containment of animals shall be buffered from abutting property in a residential or mixed use district with a type B buffer (per Article 11).

10.1-32 Wireless telecommunication facilities, microcell.

- A. Zoning districts: All zoning districts
- B. Development Standards
 - (1) Microcellular wireless telecommunication facilities are permitted on buildings and other existing structures (other than off-premise signs) which do not require an increase in height to accommodate the facility. Electric distribution poles may be extended in height in residential zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning and Subdivision Administrator*, or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.
 - (2) All antennas associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be flush-mounted against the side of the building or structure and camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted.
 - (3) Antennas associated with a microcellular wireless telecommunication facility mounted on a utility pole must be mounted atop the pole or flush mounted against the sides of the pole, and shall be colored to match or complement the color of the utility pole and shall be mounted in as unobtrusive a manner as possible.
 - (4) Antennas associated with a microcellular wireless telecommunication facility may not be co-located on a tower or other support structure used by

an amateur radio operator.

- (5) Equipment enclosures associated with microcellular wireless telecommunication facilities mounted on a building or other existing structure (other than a utility pole) shall be mounted inside the building or structure, attached to an exterior surface, or placed underground or on a concrete pad on the ground outside the building or structure. If mounted on an exterior surface, the enclosures shall be colored or camouflaged to match or complement the color and architectural treatment of the surface on which they are mounted. If placed on a concrete pad on the ground, the enclosures shall be screened so as to make them unobtrusive.
- (6) Equipment enclosures associated with a microcellular wireless telecommunication facility mounted on a utility pole, must be mounted on the utility pole; provided, however, if combiners are used to allow co-location by sharing of an antenna or antenna array and pole-mounting of equipment enclosures cannot be accommodated on the pole, the combiner and additional equipment enclosures may be placed underground or on a concrete pad on the ground. If placed on a concrete pad on the ground, such additional equipment enclosures shall be screened so as to make them unobtrusive.
- (7) All cabling and wiring connecting antennas, equipment enclosures, and other components of a microcellular wireless telecommunication facility shall be colored or concealed in a manner as to render them unobtrusive.
- (8) Microcellular wireless telecommunication facilities located in a local historic district or on a historic landmark shall require a certificate of appropriateness from the historic resources commission.
- (9) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (10) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.
- (11) As part of its application each applicant for a microcellular wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility upon abandonment or cessation of operations. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town for all costs it incurs to perform any work required of the applicant by the agreement that the applicant fails to perform. A \$5,000.00 cash bond,

or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of its maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

- (12) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days' written notice of its intention to do so to the permittee at its last known address.
- (13) An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the Town. Before an annual permit shall be issued or renewed an applicant or permittee must certify that:
- a. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.
 - b. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.
 - c. That the facility continues to comply with all FCC and FAA rules and regulations.
 - d. That the permittee currently has general liability insurance of at least \$1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.
 - e. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.
 - f. That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the Town without the Town's approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility's owner to all other penalty and enforcement provisions of this Code. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days' advance written notice to the permittee at its

last known address of the pending expiration of the permittee's annual wireless telecommunication facility permit. Fees for annual wireless telecommunication facility permits shall be as established by the Town of Midland.

10.1-33 Wireless telecommunication facilities, concealed.

A. Zoning Districts: All zoning districts.

B. Development Standards

(1) Concealed wireless telecommunication facilities are permitted on buildings and alternative structures (other than off-premise signs and telecommunication towers).

(2) For purposes of this section, antennas mounted on an electric transmission tower shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground. If placed on the ground, equipment enclosures shall be placed on a concrete pad and screened so as to make them unobtrusive.

(3) For purposes of this section, antennas mounted on an electric distribution tower, street lighting pole or traffic light pole shall qualify as a concealed wireless telecommunication facility provided antennas associated with such a facility do not extend more than ten feet above the top of the supporting structure nor more than two feet from the sides of the structure, and equipment enclosures associated with the facility occupy less than 60 cubic feet. Equipment enclosures associated with such a facility may be mounted on the structure or placed underground or on the ground on a concrete pad. Electric distribution poles may be extended in height in R/MST and R/OMT zoning districts to the lesser of 20 feet above the vegetative canopy in the vicinity of the site as determined by the *Planning, Zoning and Subdivision Administrator* or 80 feet in height. Such extensions shall qualify as an existing structure for purposes of this section. Such height extensions of electric distribution poles shall only be permitted if no other distribution pole within 1,320 feet of the proposed site has been extended in height above the average pole height on the same distribution line as documented by the utility owning such poles.

(4) Panel antennas associated with concealed wireless telecommunication facilities may not exceed eight feet in height. If flush-mounted on the side of a building or alternative structure, antennas shall be camouflaged to match or complement the color and architectural treatment of the surface. Antennas extending above the roof line of a building shall be concealed behind an RF-transparent parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building or structure. Such parapet walls or facades shall not extend more than ten feet above the roof line. Where a parapet wall is at least eight feet in height, omnidirectional (whip-type) antennas may extend above the parapet wall by a distance equal to the height of the parapet wall.

- (5) Antennas associated with a concealed wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.
- (6) Electronic equipment associated with concealed wireless telecommunication facilities may be placed inside a building or, if placed on a rooftop, all equipment enclosures shall be mounted behind a parapet wall or facade which is camouflaged to match or complement the color and architectural treatment of the building. If placed on the ground on a concrete pad, except as provided in subsection 10.1-33.B(4) above, equipment enclosures shall be screened so as to make them unobtrusive.
- (7) All cabling and wiring connecting antennas, equipment enclosures, and other components of concealed wireless telecommunication facilities shall be colored or concealed in a manner as to render them unobtrusive.
- (8) Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
- (9) Applicants for concealed wireless telecommunication facilities shall first be encouraged to consider properties owned by the Town or Cabarrus County, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless telecommunication facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.
- (10) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.
- (11) As part of its application, each applicant for a concealed wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Midland for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 cash bond, or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other

security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

(12) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days' written notice of its intent to do so to the permittee at its last known address.

(13) An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the Town. Before an annual permit shall be issued or renewed an applicant or permittee must certify that:

a. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

b. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

c. That the facility continues to comply with all FCC and FAA rules and regulations.

d. That the permittee currently has general liability insurance of at least \$1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

e. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

f. That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the Town without the Town approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility's owner to all other penalty and enforcement provisions of this Ordinance. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days' advance written notice to the permittee at its last known address of the pending expirations of the permittee's annual wireless telecommunication facility permits. Fees for annual wireless telecommunication facility permits shall be as established by the Town of Midland.

10.1-34 Wireless Telecommunication Facility, Co-located.

A. Zoning districts: All zoning districts.

B. Development Standards

- (1) Application fees for a co-located wireless telecommunication facility shall be as established by the Town of Midland.
- (2) Wireless telecommunication facilities may be co-located on any structure which hosts one or more existing permitted and approved wireless telecommunication facilities provided, however, that the proposed co-located wireless facility must meet equipment enclosure and antenna size restrictions for the type of facility and zoning district in which the existing facility was approved (i.e., microcell and concealed wireless telecommunication facilities). The structure on which the wireless telecommunication facilities are to be located may be improved, rehabilitated, or altered structurally to accommodate the proposed co-location, provided that the height of a nonconforming structure is not increased and provided further that the proposed co-location complies with all other requirements of this chapter and other applicable laws and regulations.
- (3) Where co-location is proposed by use of a combiner (allowing two or more commercial wireless service providers to share a common antenna or antenna array), an equipment enclosure which houses only the combiner and amplifiers may exceed the maximum permitted dimensions for other types of equipment enclosures up to a maximum of 70 cubic feet.
- (4) Antennas associated with a co-located wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.
- (5) Co-located wireless telecommunication facilities shall be designed to meet the following standards:
 - a. Use of dual-band/multi-band antennas (to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands) or by using combiners (to allow antenna sharing by users of the same frequency band) is encouraged in order to minimize the height of support structures and the visual impact of multiple co-located antennas or antenna arrays.
 - b. Antennas associated with a co-located wireless telecommunication facility shall be mounted so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:
 - 1) Compact dual-polarized antennas in a cylindrical unicell arrangement extending less than two feet from the structure, and mounted atop the tower;
 - 2) Panel antennas flush-mounted against the tower; and
 - 3) Antennas mounted at the end of straight or curved davit arms or brackets extending from the sides of the tower.
 - c. No co-located wireless telecommunication facility located on a telecommunication tower shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest,

triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

- d. All equipment enclosures and other improvements accessory to a co-located wireless telecommunication facility shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure shall exceed 12 feet in height. Ground mounted equipment shall be screened from view with a row of evergreen trees and/or shrubs planted in a landscape strip with a minimum width of five feet, except where a design of nonvegetative screening better reflects and complements the architectural character of the surrounding neighborhood.
 - e. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.
 - f. Equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence may be topped with barbed wire. The *Planning, Zoning and Subdivision Administrator* may require as a condition of approval that the fencing be screened by appropriate landscaping or other means, or may waive or modify the fencing requirement if he/she determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.
 - g. Signage at any ground-based portion of a co-located wireless telecommunication facility site shall conform to the following provisions:
 - 1) A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.
 - 2) Equipment hazard warning and informational signs are permitted.
 - 3) The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.
- (6) A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the

wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

- (7) As part of its application, each applicant for a co-located wireless telecommunication facility shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the co-located facility within 180 days of the abandonment or cessation of operations of the co-located facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the town of Midland for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 cash bond, or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement when a separate equipment shelter is constructed to house the equipment for the co-located wireless telecommunication facility. A \$3,000.00 cash bond, or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement when the equipment for the co-located telecommunications facility is housed in an existing equipment shelter. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the co-located facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.
- (8) Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days' written notice of its intention to do so to the permittee at its last known address.
- (9) Co-located wireless telecommunication facilities shall not be constructed unless the facility owner has general liability coverage of at least \$1,000,000.00. The owner of a co-located wireless telecommunication facility shall provide the Town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.
- (10) An annual wireless telecommunication facility permit shall be required for every wireless telecommunication facility located in the Town. Before a permit shall be issued or renewed an applicant or permittee must certify

that:

- a. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.
- b. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.
- c. That the facility continues to comply with all FCC and FAA rules and regulations and all conditions of its special use permit.
- d. That the permittee currently has general liability insurance of at least \$1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.
- e. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.
- f. That it has not constructed, maintained, modified or operated any wireless telecommunication facilities in the Town without the Town's approval or, if it has done so, that it has ceased operating and has removed all of such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility's owner to all other penalty and enforcement provisions of this Ordinance. Prior to removing a wireless telecommunication facility pursuant to this section, the Town shall give 30 days' advance written notice to the permittee at its last known address of the pending expiration of the permittee's annual wireless telecommunication facility permit. Fees for annual wireless telecommunication facility permits shall be as established by the Town of Midland.

10.1-35 Warehouse, Self-storage. (Amended May 10, 2016)

A. Zoning Districts: C 24/27, and C 601

B. Development Standards:

- (1) Buildings must conform to Highway Building Type Standards specified in Section 9.8; however, provisions of 9.8-4 shall not apply to building facades unless visible from and facing an abutting street, highway or adjacent property boundary. Doors may be metal provided they are color matched to the exterior finish.
- (2) Parking and vehicle storage areas, including cars, trucks, trailers, campers, boats, etc. shall be screened from residential uses and/or districts with a type C buffer (per Article 11).
- (3) Exterior lighting shall be directed or screened so as to protect the privacy of the private living areas and associated open spaces of adjacent residential properties. All exterior lighting shall be full cut-off fixtures.
- (4) Fence and Wall standards of Section 2.13-2 shall apply.

10.1-36 Tattoo Parlor and Body Artist Piercing Parlor (Amended February 12, 2019)

A. Zoning Districts: C24/27 and C601

B. Development Standards:

- (1) Hours of operation will be no earlier than 8:00 a.m. and no later than 11:00 p.m.
- (2) Not within one (1) mile of an existing tattoo parlor and body artist piercing parlor. (Distances shall be measured radially from property line to property line of the referenced use at their closest points.)
- (3) Shall be separated from religious institution uses, day care uses, public parks, schools (elementary, middle and high) and government institutions by a minimum of 300 linear feet as measured radially from property line to property line of the referenced use at their closest points.
- (4) Buildings must conform to Highway Building Type Standards specified in Article 9, Building and Lot Type Standards, Section 9.8.

10.1-37 Mobile Food Vending (Amended August 11, 2020)

A. Zoning Districts: C 24/27, C 601, & IND

B. Applicability: The provisions of this Section shall apply to any mobile food vending subject to the provisions below:

1. A mobile food vendor, or the property owner on which mobile food vending will be placed shall obtain a zoning clearance permit. Permit shall be valid for no more than 3 days per week. Permits must be posted in a visible location on the mobile food vending unit.
2. The property owner will be issued a notice of violation if no permit has been issued for the location. However, the mobile food vendor will be cited if located on a property without property owner approval.
3. A permit shall be valid for one calendar year and must be renewed on an annual basis. A permit must be issued for each individual site.
4. Permits are limited to one (1) per tax parcel/property.

5. All applicable local and state regulations, including, but not limited to, Health Department, Environmental Health, and Environmental Protection, shall be met.

C. Site Criteria

1. All food trucks shall be located within a surface parking lot and within a designated parking space or spaces.
2. No mobile food vending unit shall be located within any required setback, sight distance triangle, or required buffer, nor shall any drive aisle, loading/service area, pedestrian walkway, emergency access, or fire lane be impeded.
3. Trash receptacles must be provided by the property owner, or designee, for customers to dispose of food wrappers, food utensils, paper products, cans, bottles, food and other such waste. Such trash receptacles shall be located no more than 10 feet from the mobile food vending unit. The property owner, or designee, is responsible for removing all trash, litter, and refuse from the site at the end of each business day.
4. No mobile food vending unit shall operate as a drive-thru service.
5. In all zoning districts where food trucks are allowed, the mobile food vending unit shall provide one (1) parking space per 250 square feet of the mobile food vending unit.
6. Mobile food vending units are required to return to their associated commissary at the end of each business day.
7. These restrictions shall not be applicable to special events recognized by the Town or non-profit events of five (5) days or less.

10.2 Special Uses

10.2-1 Purpose. Certain uses may wish to locate in the Town of Midland and its area of jurisdiction, which, due to their size and/or operation, have impacts that could adversely impact neighboring uses or the community as a whole. Due to the potential impacts of these uses, they must meet certain conditions to ensure that they do not adversely impact neighboring uses or the community as a whole. This section identifies the uses that require conditions and establishes the conditions they must meet. A Special Use Permit must be granted for these uses in accordance with the procedures set forth in Article 7.

10.2-2 Special Uses Established. The following Special Uses and the conditions they must meet are hereby established. These uses are symbolized within Table 8.1, appearing at the end of Article 8 of this Ordinance, by the letter “C” and followed by the subsection number within parenthesis for assistance in locating applicable standards unique to the use.

10.2-3 Adult Uses.

A. Zoning District: IND

B. Conditions:

- (1) No lot containing an adult use shall be located within a 1,200 foot radius of any lot containing another adult use.
- (2) No lot containing an adult use shall be located within a 1,200 foot radius of any residential or mixed use zoning district.
- (3) No lot containing an adult use shall be located within a 1,200 foot radius of any dwelling unit, church or place of worship, school, library, licensed child care center, public recreation center, or public park or playground.
- (4) The required distance shall be measured from the closest edge of the property occupied by an adult use to the closest edge of the property occupied by a protected use, zone, or by another adult use. Provided, however, that an adult use is located in a multi-tenant facility, the distance shall be measured from the closest edge of the portion of the facility occupied by such use.
- (5) No more than one adult establishment may be located within the same structure or on the same lot.
- (6) In the interest of public health and safety, mini-motion picture booths shall be constructed without doors, and shall orient the customer entrance of each booth toward the principal sales counter.
- (7) Except for permitted business identification signage, no printed material, slide, video, photograph, written text, live show, or other visual presentation shall be visible, nor shall any live or recorded voices, music, or sounds be heard from outside the walls of the adult use.

10.2-4 Agricultural Based Business Facility.

A. Zoning District: AG, MFO, OMP, OM, C 24/27, C 601, and IND

B. Conditions:

- (1) The facility will not be in conflict with the purpose and objectives of the Scenic Corridor Overlay District.
- (2) The facility shall be located on a lot of no less than five (5) acres.
- (3) Minimum 208 foot distance between manure storage areas and any adjacent residentially zoned property.
- (4) Minimum 60 foot distance between barns and/or stables and any adjacent residentially zoned property.
- (5) The facility may include accessory research, manufacturing or production operations for fruit and vegetable produce for human consumption.
- (6) The facility shall not include feed lots, slaughtering and/or meat packaging operations.

10.2-5 Amusement/Water Parks, Fairgrounds.

A. Zoning District: C 24/27 and C 601

B. Conditions:

- (1) Outdoor amusement facilities will be separated by a type C buffer (per Article 11) from any abutting property located in a residential or mixed use district.

(2) No amusement facilities, such as miniature golf courses, water slides, or mechanical rides shall be located within 200 feet of any abutting property located in a residential district.

(3) Hours of operation will be no earlier than 6:00 a.m. and no later than 12:00 midnight.

10.2-6 Asphalt Plant.

A. Zoning District: RESERVED

B. Conditions:

(1) The facility shall be located on a lot of no less than five (5) acres.

(2) Access shall be from a collector or higher classification street. No trucks traffic shall be permitted on surrounding residential streets.

(3) A minimum of a type A buffer (per Article 11) shall be located around the perimeter of the property on which the asphalt plant is located.

(4) All operations other than parking shall be located a minimum of 1,000 feet from any residential or mixed use zoning district.

10.2-7 Equestrian Facility.

A. Zoning District: AG, MFO, SFR, C 24/27, C 601, and TNDO

B. Conditions:

(1) The facility will not be in conflict with the purpose and objectives set forth in this ordinance for the zoning district in which the facility is located.

(2) The facility shall be located on a lot of no less than five (5) acres.

(3) Outdoor riding rings may be provided as part of the facility.

(4) Minimum 208 foot distance between manure storage areas and any adjacent residentially zoned property.

(5) Minimum 60 foot distance between barns and/or stables and any adjacent residentially zoned property.

(6) Maximum number of horses boarded is 2 per acre.

(7) Buildings shall meet the following design standards:

a. Maximum footprint: 15,000 SF

b. Maximum height: 42 feet (excluding silos and related attachments)

c. Exterior building materials shall consist of wood siding, wood shingles, fiber cement siding, metal, brick, rock, or other high quality masonry material. No vinyl, galvanized metal, or unprotected metal siding shall be permitted.

10.2-8 Group Care Facility. *(amended May 13, 2014)*

A. Zoning District: AG, MFO, MSP, OMP, CIV, C 24/27, C 601 and TNDO

B. Conditions:

(1) No such facility shall be located within one-half (1/2) mile of an existing group care facility, except in the Civic (CIV) District.

(2) The facility shall be limited to no more than thirty (30) persons.

(3) Buildings shall be of a type permitted in the zoning district.

- (4) Should be located as a transitional use adjacent to offices, open space and other lower intensity uses.

10.2-9 Junkyards and/or Salvage Yards, Auto Parts.

A. Zoning District: IND

B. Conditions

- (1) The minimum area required to establish a salvage yard shall be five (5) acres.
- (2) A six foot tall opaque fence of uniform construction and a type A buffer (per Article 11) shall be placed around the perimeter of the use; plantings shall be on the exterior side of the fence.
- (3) No salvage yard, scrap processor, or auto wrecking shall be located within three hundred (300) feet of any residential district at the time of installation of such operation or business.

10.2-10 Manufactured Dwelling Park.

A. Zoning District: MFO

B. Conditions

- (1) A site plan for the Manufactured Dwelling Park may only be approved by the *Planning and Zoning Commission*.
- (2) Minimum area: Five (5) acres.
- (3) The minimum number of spaces shall be 15 and the maximum number of spaces shall be 180.
- (4) Minimum setback: 70 feet from all public rights-of-ways and property lines.
- (5) No more than one manufactured dwelling or recreational vehicle, towed or self-propelled, shall be parked or set-up on any one space.
- (6) Access standards:
 - a. No space shall have direct vehicular access to a public street;
 - b. All spaces shall directly abut a private street in the park;
 - c. Each space shall have adequate access, with a minimum access width of 20 feet.
- (7) Recreational Areas and Facilities: Recreational areas and facilities to serve the needs of the anticipated population within the park shall be provided and shall consist of at least:
 - a. A play lot for preschool children (2-5) containing a minimum size of 1,200 square feet within 500 feet of every space; and
 - b. One or more playgrounds for school-age children (5-12), teens and adults, containing a minimum of one acre per 40 spaces;
 - c. Recreation areas shall not be in an area used for septic tank fields.
- (8) There shall be no sales of manufactured dwelling and recreational vehicles in the park, other than units established and previously occupied for a minimum of 90 consecutive days on-site.
- (9) Drainage and Grading:

- a. The spaces shall be located on ground with an elevation that is not susceptible to flooding and which is graded to prevent any water from ponding or accumulating on or around the park. Where storm drainage pipes are located in adjacent streets, underground drainage facilities with connections to the storm drainage system shall be provided for the park.
 - b. Each space shall be graded and grassed to prevent erosion and provide adequate storm drainage away from the manufactured dwelling or recreational vehicle pad.
 - c. The surface slope of the stand or pad shall not exceed 3%.
 - d. No banks, except along drainage ditches, shall have a slope steeper than three feet to one foot (3:1).
- (10) Garbage and Refuse Disposal: All refuse shall be stored in conveniently located, leak-proof containers with tight-fitting lids. Containers shall be provided in sufficient number and capacity for proper storage of all refuse. Racks or concrete platforms shall be provided on which to store containers for refuse. The containers, racks, and/or platforms shall be so designed as to prevent tipping, to minimize spillage and container deterioration, and to facilitate cleaning. Dumpsters shall be required in lieu of individual containers in areas where municipal water or sewer are available. All refuse shall be collected at least weekly, or more often if the need is indicated.
- (11) Registration: It shall be the duty of the operator to keep an accurate register containing a record of all occupants. The register shall contain the following information:
- a. Name, address and space number of each occupant;
 - b. The date the manufactured dwelling or recreational vehicle entered the park;
 - c. The license number of each recreational vehicle and/or car, truck, etc. with state of issuance, makes, and type of vehicle.
- The operator shall keep the register available at all times for inspection by the Code Administrator, public health officials, and other officials whose duties necessitate acquisition of the information contained in the register.
- (12) Park Manager Residence: A single-family detached dwelling may be provided for the manager of the park.
- (13) Pre-existing Dwellings: Pre-existing dwellings on the site may remain provided they occupy approved spaces.
- (14) Design Requirements Applicable to Manufactured Dwelling Parks: The following design requirements apply to Manufactured Dwelling Parks:
- a. Minimum Manufactured Dwelling Space Size: A manufactured dwelling space shall consist of a minimum of 6,000 square feet and shall have a width of at least 45 feet at the location of the manufactured dwelling stand. Exception: A manufactured dwelling space not served by public sewer shall consist of a minimum of 40,000 square feet and shall have a width of at least 120 feet at the location of the manufactured dwelling stand. Every manufactured dwelling space shall be clearly established on

the ground by permanent monuments or markers.

b. Each Manufactured dwelling space shall contain:

- (1) a manufactured dwelling stand consisting of a properly graded and compacted surface no less than 13 feet by 60 feet;
- (2) a patio space constructed of concrete, brick, flagstone or other hard surface material a minimum of 240 square feet in area;
- (3) a hard surface walkway a minimum of two feet wide leading from the patio to the parking space or road.

c. Manufactured Dwelling Additions: Prefabricated structures specifically designed by the manufacturer for manufactured dwelling extensions and any other addition meeting the NC Building Code may be added to any manufactured dwelling provided that setback within the space can be met and a building permit is obtained.

d. Construction and Design of Private Streets:

- (1) Private entrance, collector, and interior streets with no parking or minor cul-de-sac streets with no parking shall meet the minimum design standards for private streets as set forth in the Town of Midland Technical Standards and Specifications Manual;
- (2) One-way minor streets with no parking (acceptable only if less than 500 feet total length and serving less than 15 manufactured dwelling stands) shall have a 20 foot minimum right-of-way with 12 foot minimum paved surface;
- (3) all private streets shall have signage in accordance with town standards for safety and identification;
- (3) Private streets shall be lighted at night with cut-off fixtures meeting the standards of the Town for street lights.

e. Park Access: If a manufactured dwelling park has more than one (1) direct access to a public street, such access points shall be no less than 200 feet apart and no closer than 300 feet to a public street intersection.

f. Parking:

- (1) Two parking spaces, a minimum of 9 feet by 18 feet, shall be provided within each manufactured dwelling space;
- (2) All parking spaces shall be paved or covered with four inches (4") of crushed stone;
- (3) No parking shall be allowed on private entrance and collector streets.

g. Landscaping: Landscaping shall be provided throughout the park with ample trees and shrubs to provide shade and break up open areas. All banks and open areas shall be grassed.

h. Removal of Rubbish: All cut or fallen trees, stumps, or rubbish shall be or removed from the manufactured dwelling park.

i. Utilities Installation: Each manufactured dwelling located within a park shall comply with the current North Carolina Regulations for manufactured dwelling in both manufacture and installation and must be inspected to assure compliance prior to occupancy.

- (1) All utilities shall be installed underground except where

extreme conditions of topography make this requirement unreasonable.

(2) Placement of utilities serving the manufactured dwelling stand shall comply with the NC Building Code for Plumbing.

(3) Minimum electrical service of 200 ampere, 120-240 volt single phase shall be provided to each manufactured dwelling stand. The service panel and location as well as all wiring shall be in accordance with the National Electrical Code.

(4) Each manufactured dwelling shall be required to connect to the utilities provided at each manufactured dwelling space.

(5) Each manufactured dwelling park shall obtain water from a public water supply when available, and when unavailable, from a source approved by the Cabarrus County Health Department. The water supply and pressure shall be adequate for the park requirements. Water for drinking, cooking, laundry, and general sanitary uses for each individual manufactured dwelling shall be obtained only from faucets or other plumbing connections located within each manufactured dwelling.

(6) Each manufactured dwelling park shall be provided with an adequate sewage disposal system, either by connection to a public sewer or a septic tank constructed in compliance with the regulations of the Cabarrus County Board of Health. All sewage wastes from toilets, showers, bathtubs, lavatories, wash basins, refrigerator drains, sinks, faucets, and water-using appliances not herein mentioned shall be piped into the manufactured dwelling park sewage disposal system.

j. Fuel Oil Drum: Each manufactured dwelling that requires the use of fuel oil shall be furnished with an oil drum having a minimum capacity of one hundred fifty (150) gallons, set upon a painted, prefabricated metal stand.

k. Manufactured Dwelling Design Standards: Each manufactured dwelling shall have a roof pitch of at least 5 feet of rise for each 12 feet of horizontal run and a minimum width of 12 feet.

10.2-11 Petroleum and Petroleum Products (including bio-fuel) Storage and/or Transfer Facilities.

A. Zoning District: IND

B. Conditions:

(1) Minimum lot area shall be five (5) acres.

(2) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Town of Midland.

(3) The use shall be buffered from adjacent properties, other than those zoned IND, and public streets with a type B buffer (per Article 11).

10.2-12 Sewage Treatment Plant.

A. Zoning District: AG and IND

B. Conditions:

- (1) Minimum site area shall be ten (10) acres.
- (2) All buildings, lagoons, outdoor treatment areas, and other facilities shall be located at least 1,000 feet from residential and mixed use zoned property.
- (3) Use shall comply with all federal and state standards. Verification of compliance or ability to comply shall be provided with the application submitted to the Town of Midland.
- (4) Use shall be managed and operated by a municipality, county, or other governmental entity.

10.2-13 Shooting Range, Outdoor.

A. Zoning District: AG and IND

B. Conditions:

- (1) Minimum separation between the shooting range and closest exterior property line shall be three hundred (300) feet.
- (2) Access shall be controlled to prevent unregulated entrance to firing area.
- (3) Security fencing shall be provided to prevent an individual from crossing the property downrange.
- (4) Dikes or berms shall be provided and shall be of sufficient height and thickness to stop all rounds fired downrange. Elevation control is required along the shooting stands to prevent rounds from being fired over the dike or berm.
- (5) Hours of operation limited to 8:00AM-8:00PM local time.

10.2-14 Telecommunications Towers.

A. Zoning Districts: IND

B. Conditions:

- (1) The applicant for a special use permit for a telecommunication tower shall bear the burden of demonstrating by substantial evidence in a written record that a bona fide need exists for the proposed telecommunication tower and that no reasonable combination of locations, techniques or technologies will obviate the need for, or mitigate the height or visual impact of, the proposed telecommunication tower.
- (2) Application fees for a special use for a telecommunication tower shall be as established by the Town of Midland.
- (3) The Town may elect to retain outside consultants or professional services to review a special use application for a telecommunication tower and to make recommendations on relevant issues including, but not limited to, verification of the applicant's due diligence, analysis of alternatives, conditions of approval, and compliance with state and federal rules and regulations at the applicant's expense. An application shall not be deemed complete until the applicant has posted a \$5,000.00 cash bond, or other security satisfactory to the Town, guaranteeing payment of such expenses. Private business users operating a single wireless telecommunication

facility at their principal place of business and governmental users are exempt from the bond requirement.

(4) In addition to the notice requirements found elsewhere in this Ordinance, the applicant for a special use permit for a telecommunication tower shall be required to notify by regular mail all property owners within a one-quarter mile (1,320 feet) radius of the proposed location of any public hearing on the application at least ten days prior to the hearing. The *Planning, Zoning and Subdivision Administrator* may require the applicant to conduct a crane or balloon test to simulate the height of the proposed tower. Notice of the dates and times of such tests shall be mailed by the applicant to all property owners within a one-quarter mile (1,320 feet) radius of the proposed location at least ten days prior to the primary test date. The notice shall state primary and alternate test dates, as well as a range of dates for testing in the event of extended periods of inclement weather. The *Planning, Zoning and Subdivision Administrator* shall review and approve the sufficiency of the notice prior to mailing and, as part of its application, the applicant will be required to submit a certificate of mailing and attach a copy of the notice and a list of the addresses to which it was sent. In the event the applicant shall seek to increase the height of a proposed tower, or move its location more than 50 feet laterally, from that stated in the original notices, additional notice shall be required to be given in accordance with the above provisions and all time periods shall run from the date of supplemental notification.

(5) Applicants for telecommunication towers shall first be encouraged to consider properties owned by the Town or Cabarrus County, or instrumentalities thereof, before considering private properties. Public properties shall be subject to the same restrictions and standards of appropriateness as private properties. All such public agencies or instrumentalities shall retain discretion as to whether to make a specific property available for wireless telecommunication facilities and to make determinations with respect to site capacity, aesthetics, or suitability of such facilities.

(6) Telecommunication towers proposed on properties under the ownership or control of the North Carolina Department of Transportation shall simulate typical highway lighting towers in height and appearance and shall be clustered amongst or near such towers so as to be unobtrusive. If due to topography, existing vegetative canopy, or other local conditions, the Town Council determines that a tower disguised as a coniferous tree is a preferable aesthetic alternative to a simulated lighting tower, it may require such camouflage treatment as a condition of approval. If any portion of a telecommunication tower located on such properties is used to mount cameras, instruments, sensors or antennas for governmental use, and the same structure supports or incorporates commercial wireless telecommunication facilities, the governmental use shall be deemed incidental or accessory to the commercial use and the entire facility shall be treated as a commercial use for purposes of this section.

(7) It is the policy of the Town to encourage co-location and the use of existing structures where appropriate. In furtherance of that policy objective, the following provisions shall apply to an application for a special use permit for a telecommunication tower:

a. A special use for a telecommunication tower shall not be approved unless the tower is designed structurally, electrically, mechanically and in all respects to accommodate at least one additional user. An application shall not be deemed complete until the applicant submits:

1. A letter of intent agreeing to make all of its wireless telecommunication facilities (including existing facilities) within the Town available to providers of functionally equivalent services at commercially reasonable rates.

2. A copy of an executed lease for the proposed tower site that allows co-location or leasing or subleasing to other providers of functionally equivalent services.

b. Applicants are encouraged to meet co-location requirements by using dual-band/multi-band antennas to allow sharing of antennas or antenna arrays by wireless providers using different frequency bands or by using combiners to allow antenna sharing by users of the same frequency band.

c. A special use application for a telecommunication tower shall not be approved if an electric transmission tower is located above, or no less than 25 feet below, the ground elevation of and within the search radius of a proposed telecommunication tower, unless the applicant can demonstrate one or more of the following:

1. That sufficient easements or other interests in real property cannot be obtained to accommodate the wireless telecommunication facility;

2. That the electric utility owning the electric transmission tower is unwilling to allow its use for wireless facilities;

3. That the applicant is unable to gain sufficient ingress and egress to the electric transmission tower;

4. That the existing use of the electric transmission tower would interfere with the operations of the applicant as documented by a qualified and licensed North Carolina engineer and the interference cannot be prevented;

5. That the planned equipment would exceed the structural capacity of the electric transmission tower as documented by a qualified and licensed North Carolina professional engineer, and the electric transmission tower cannot be reinforced, modified, or replaced to accommodate planned or equivalent equipment at a reasonable cost.

Electric transmission towers may be increased in height to that allowed for telecommunication towers in the district in which the electric transmission tower is located if the Town Council

determines such height extension is preferable to placement of a new telecommunication tower in that area.

d. A special use application for a telecommunication tower shall not be approved unless the equipment planned for the proposed tower cannot be accommodated on existing or approved towers, buildings or alternative structures more than 30 feet in height (after first considering electric transmission towers) within a one-quarter mile (1,320 foot) radius of the proposed telecommunication tower due to one or more of the following reasons:

1. The planned equipment would exceed the structural capacity of the existing or approved tower, building or alternative structures, as documented by a qualified and licensed North Carolina professional engineer, and the existing or approved tower, building or structure cannot be reinforced, modified or replaced to accommodate planned or equivalent equipment at a reasonable cost.

2. The planned equipment would cause interference materially impacting the usability of other existing or planned equipment on the towers, buildings or alternative structures, as documented by a qualified and licensed North Carolina engineer, and the interference cannot be prevented at a reasonable cost.

3. Existing or approved towers, buildings or other structures within the search radius, or combinations thereof, cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed North Carolina professional engineer.

4. Other unforeseen reasons that make it infeasible to locate the planned telecommunication equipment upon existing or approved towers, buildings or alternative structures.

e. Antennas associated with a wireless telecommunication facility may not be co-located on a tower or other support structure used by an amateur radio operator.

f. No wireless telecommunication facility shall interfere with usual and customary radio and television reception excepting broadcast facilities as provided for in the regulations of the FCC.

8. All telecommunication towers must comply with FCC and FAA regulations.

9. A copy of the applicant's FCC license must accompany its application. If the applicant is not an FCC licensee, the applicant must demonstrate that it has binding commitments from one or more FCC licensees to utilize the wireless telecommunication facility and must submit a copy of each such wireless service provider's FCC license. If FCC licenses have previously been filed with the Town in conjunction with other wireless telecommunication facilities, the applicant may certify that such licenses remain in full force and effect.

10. As part of its application, each applicant for a telecommunication tower shall be required to execute a standard maintenance/removal agreement binding the applicant and its successors and assigns to maintain properly the exterior appearance of and ultimately remove the facility within 180 days of the abandonment or cessation of operations of the facility. Such agreement shall require the applicant to pay all costs for monitoring compliance with, and enforcement of, the agreement and to reimburse the Town of Midland for all costs it incurs to perform any work required of the applicant by the agreement that it fails to perform. A \$5,000.00 cash bond, or other security acceptable to the Town, shall be required in conjunction with the maintenance/removal agreement. The applicant and its successors and assigns shall be required to continue such bond or other security until such time as the facility has been removed and all other requirements of the maintenance/removal agreement have been satisfied. Private business users operating a single wireless telecommunication facility at their principal place of business and governmental users are exempt from the bond requirement.

11. Abandoned or unused wireless telecommunication facilities shall be removed within 180 days of abandonment or cessation of operations. If not removed within that period, such facilities may be removed as provided in the permittee's maintenance/removal agreement and the costs of removal recovered from the permittee's bond or other security. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town shall give 30 days written notice of its intention to do so to the permittee at its last known address.

12. All telecommunication towers shall comply with FAA lighting requirements. In addition, in a specific instance, the Town may impose lighting requirements for a tower that is not required by FAA regulations to be lit.

13. Except as otherwise provided herein, minimum setbacks for telecommunication towers shall be in accordance with the setback requirements set forth in the development standards for the district in which the location of the tower is proposed. In addition, telecommunication towers must be set back from any residentially zoned or residentially used properties a distance equivalent to one-half the height of the tower being erected. The Town Council may reduce the setback requirement upon a showing by the applicant that there are special physical circumstances or conditions affecting the proposed site such that the strict application of the setback requirement would not allow the most effective use of the proposed site to minimize the visual impact of the wireless telecommunication facility.

14. Telecommunication towers shall be buffered from adjacent properties with a buffer which, at a minimum, meets the requirements of a Type B buffer as described in Article 11 of this ordinance, regardless of adjacent zoning district classifications or uses.

15. No telecommunication tower shall be located:

- a. On top of buildings; or
- b. In a locally or nationally designated historic area or property or on a nationally or locally designated historic structure or building. Nor shall a telecommunications tower be located such that it adversely impacts the historic integrity of a locally or nationally designated historic area, property, or structure.

16. In cases where an applicant is required to perform an environmental assessment (EA) or an environmental impact statement (EIS) under the National Environmental Policy Act or the National Historic Preservation Act, such EA or EIS shall be submitted as part of its application for a special use permit. An application for a special use permit will not be deemed complete until any required EA or EIS has been submitted to the Town.

17. Telecommunication towers shall not be constructed unless the company erecting the tower has general liability coverage of at least \$1,000,000.00. The owner of a telecommunication tower shall provide the Town with a certificate of insurance showing evidence of its coverage and the certificate shall contain a requirement that the insurance company notify the Town 30 days prior to the cancellation, modification or failure to renew the insurance coverage required.

18. Telecommunication towers shall be designed to meet the following standards:

- a. Towers and antennas shall be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment. The Town Council may condition approval on the use of specific concealment techniques where it determines that doing so is necessary or desirable.

- b. Guyed towers are prohibited. Commercial wireless telecommunication towers shall be of a monopole design unless the Town Council determines that an alternative design would better blend in to the surrounding environment.

- c. Use of dual-polarized antennas which electronically combine the functions of transmit and receive antennas (rather than spatial diversity antenna arrays which rely on antennas being physically separated), dual-band/multi-band antennas (allowing two or more providers of different types of commercial wireless services to share a common antenna), and use of combiners (allowing antenna sharing by providers using the same frequency band) are encouraged.

- d. Antennas shall be mounted on telecommunication towers so as to present the smallest possible silhouette, profile, or cross-section. Preferred antenna mounting scenarios are, in order of descending preference:

1. Compact dual-polarized antennas in a cylindrical unicell arrangement extending no more than two feet from the sides of the supporting structure and mounted atop the tower;
2. Panel antennas flush-mounted against the tower;
3. Antennas mounted at the end of straight or curved davit

arms or brackets extending from the sides of the tower.

e. No telecommunication tower shall have constructed thereon, or attached thereto in any way, any platform, catwalk, crow's nest, triangular framework, or like structures or equipment, except during periods of construction or repair. Curved or straight davit arms or brackets used for antenna mounting shall be connected to the tower at the base of the arms or brackets only and such arms or brackets (and any antennas or hardware mounted thereon) shall not be physically interconnected with any similar arm or bracket.

f. All equipment enclosures and other improvements accessory to a tower shall be architecturally designed to blend in with the surrounding environment and shall be maintained in good appearance and repair. No equipment enclosure may exceed 12 feet in height. Ground mounted equipment shall be screened from view with a minimum "B" buffer (per Article 11), except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding neighborhood.

19. Generators may not be used as a primary electrical power source. Backup generators shall only be operated during power outages or for testing and maintenance purposes. Testing and maintenance shall only take place on weekdays between the hours of 8:30 a.m. and 4:30 p.m.

20. Telecommunication towers, equipment enclosures and other improvements shall be enclosed within a security fence consisting of chain link fencing at least eight feet in height. The fence shall not be topped with barbed wire. The Town Council may require as a condition of approval that the fencing be screened by appropriate landscaping or other means. The Town Council may waive or modify the fencing requirement if it determines that doing so will enhance the overall appearance of the facility without any compromise in safety or security.

21. Telecommunication towers shall have a flat gray or galvanized finish unless the Town Council determines another color scheme would be a preferable aesthetic alternative.

22. No two telecommunication towers shall be constructed within 1,320 feet of each other unless documentation is provided to the *Planning, Zoning and Subdivision Administrator* to show that co-location on towers within the 1,320 feet is not technically feasible.

23. No telecommunication tower shall be permitted that exceeds 100 feet in height.

24. Signage at any telecommunication tower site shall conform to the following provisions:

a. A sign listing the name of the wireless telecommunication service provider operating the site, the site name or number and an emergency telephone number shall be posted at or near the entrance to the site so as to be readily visible to persons outside the site's security fencing.

b. Equipment hazard warning and informational signs are

permitted.

c. The posting of any other signs or advertising is prohibited at any wireless telecommunication facility or upon any telecommunication tower.

25. The Town Council may require any other conditions deemed necessary or desirable to ameliorate the impact of the tower on the adjacent properties and uses. Such conditions shall include, but are not limited to: the height of the tower; the construction or type of tower; lighting; and co-location of the antennas and facilities of different parties on a single tower.

26. An annual wireless telecommunication facility permit shall be required for each wireless telecommunication facility located in the Town. Before a permit shall be issued or renewed an applicant or permittee must certify that:

a. It currently holds an FCC license to provide commercial wireless services and that such license is in good standing or, if the permittee is not an FCC licensee, that the license of each of its FCC tenants is in good standing.

b. The wireless telecommunication facility continues to be operated by the permittee and that it has a continuing need for the facility to meet the requirements of its FCC license.

c. That the facility continues to comply with all FCC and FAA rules and regulations and all conditions of its special use permit.

d. That the permittee currently has general liability insurance of at least \$1,000,000.00 in force covering the wireless telecommunication facility as evidenced by a certificate of insurance attached to its renewal application.

e. That it is in compliance with its maintenance/removal agreement and that any bond or other security given in conjunction therewith remains in full force and effect.

f. That it has not constructed, maintained, modified, or operated any wireless telecommunication facilities in the Town without the Town's approval or, if it has done so, that it has ceased operating and has removed all such facilities.

Failure to obtain or renew an annual wireless telecommunication facility permit shall result in the wireless telecommunication facility being deemed abandoned and subject to removal, as well as subjecting the facility's owner to all other penalty and enforcement provisions of this Code. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town of Midland shall give 30 days' advance written notice to the permittee at its last known address of the pending expiration of the permittee's annual wireless telecommunication facility permit. Fees for annual wireless telecommunication facility permits shall be as established by the Town of Midland.

27. Special use permits for telecommunication towers shall be valid for an initial period of five years. Upon application by the permittee within 60 days prior to the expiration of the initial permit period, a review shall be conducted to determine whether and under what conditions the special use

may be extended for successive five-year periods. Costs associated with the review process shall be borne by the permittee. Fees for five-year permit renewal shall be as established by the Town of Midland. Grounds for nonrenewal or revocation include:

- a. The use involved is no longer allowed as a special use in the zoning district or fails to comply with the relevant requirements of this Ordinance and land use regulations in effect at the time of renewal and the permittee has failed to supply reasonable assurances that the facility will be brought into compliance within 180 days of the initial permit's expiration;
- b. The permittee has failed to comply with the conditions of any special use approval;
- c. The facility has not been properly maintained;
- d. The facility has not been upgraded to minimize its impact, including community aesthetics, to the greatest extent permitted by the technology that exists at the time of renewal; or
- e. The permittee has failed to operate the facility for a continuous period of 180 days or more.

If a special use is not renewed prior to its expiration, it shall automatically become null and void without notice and hearing five years after it is issued or upon cessation of use for more than 180 days, whichever comes first. Within 180 days after expiration or revocation of a special use approval for a telecommunication tower, or the abandonment or cessation of operation of the wireless facility, the tower and facility shall be removed from the property. Prior to removing a wireless telecommunication facility pursuant to this provision, the Town of Midland shall give 30 days' written notice of its intent to do so to the permittee at its last known address.

28. A special use approval for a telecommunication tower shall become null and void if the facility is not constructed and placed in service within one year of the date of approval provided, however, that the special use approval may be extended one time for six months if substantial construction has commenced before the end of the initial year.

10.2-15 Electronic Gaming Operation

- A. Zoning District: IND
- B. Conditions:

1. SEPARATION FROM RESIDENTIAL ZONING

Electronic Gaming Operations (whether principal uses, or accessory to another use) shall be located no closer than 500 feet in any direction from any property zoned for residential use.

2. SEPARATION FROM CERTAIN USES

No Electronic Gaming Operation shall be located within 1,500 feet in any direction from any other Electronic Gaming Operation, or from any cemetery, Group Living facility, religious institution, public or private

child care center or child care facility, public or private school or non-profit club. This required separation shall apply whether the above uses are principal or accessory uses.

3. MAJOR GATEWAY SETBACKS

All Electronic Gaming Operations shall maintain a two hundred (200) foot setback along the gateway corridors listed below. The setback shall be measured perpendicular to the existing road right-of-way and shall extend one mile from the Town limit line. For the purposes of this standard a major gateway is identified as an entry way into the zoning jurisdiction along any of the following transportation corridors:

- i. US 601
- ii. NC 24
- iii. NC 27

4. MEASUREMENT

All measurements in this Section shall be from the outer building walls of the proposed use to the nearest property line of the above specified uses, and such measurement shall be in a straight line without regard to intervening structures.

5. HOURS OF OPERATION, ACCESS AND VISIBILITY

No Electronic Gaming Operations shall engage in business prior to 10:00 a.m. or after 12:00 midnight. During hours of operation, electronic gaming operations shall be open for direct, unobstructed access by police, fire and emergency response personnel. All entrance doors shall remain unlocked while patrons are on the premises. All Electronic Gaming Operations terminals, computers, machines, and/or gaming stations shall be open and visible from the exterior front of the establishment.

6. AGE RESTRICTIONS

No person or entity engaged in Electronic Gaming Operations shall allow, permit or condone any person under the age of eighteen (18) to be upon the premises while patrons are engaged in Electronic Gaming Operations.

7. SIGNAGE

Signage shall meet all the requirements of Article 17. Sign Regulations and the following requirements. No signs shall be posted on the windows of the property which are visible from the exterior of the development. No neon or other effects which simulate the appearance of neon, nor any flashing, chasing, undulated, or other variable lighting effects shall be used in connection with any use hereunder where such lighting effect would be visible from the exterior of the establishment. All rules of the electronic games shall be displayed prominently within the establishment.

8. PARKING

Parking shall be provided at the rate of one (1) space per full time employee and one (1) space per gaming terminal and/or electronic gaming machine in the establishment and in accordance with Article 12 Off-street Parking, Stacking and Loading Areas.

9. MAXIMUM NUMBER OF TERMINALS

The maximum number of terminals, computers, machines, and/or gaming stations permitted within an Electronic Gaming Operation is twenty (20).

10. COMPLIANCE WITH OTHER REGULATIONS

The Electronic Gaming Operation shall be subject to any Town of Midland privilege license fees, and shall be subject to all other standards of the Town of Midland and State of North Carolina as applicable.

10.2-16 Reception Facilities

A. A complete description of the facility including but not limited to:

1. Types of events
2. Days and hours of operation
3. Projected number of users per weekday and weekend days, with the maximum number expected at any one event
4. Total capacity for the venue
5. Types of accessory uses, if any, envisioned on the site (includes any accessory structures)
6. Total number of employees, both full-time and part-time.

Capacity	Minimum Acreage Required
Up to 100 guests	5
101-200 guests	7.5
201-300 or more guests	10

7. Any and all other relevant information that will help describe the facility

8. Building elevations for all

permanent structures to be used to accommodate receptions and/or events on the site

B. The minimum size of the proposed site shall be based on the following:

- C. A residential structure that is used for a reception facility shall not be altered in any way that changes its general residential appearance. Building height and other dimensional requirements for new construction shall be governed by the zoning district in which the property is located. New construction must meet the Architectural Standards for Highway Building Types.
- D. No long-term rental of rooms shall be permitted. The maximum length of stay shall be thirty (30) days. All guestrooms shall be located within the principal structure.
- E. All structures, viewing areas, seating and parking areas shall be set back at least one hundred (100) feet from any street or property line. (If there is a pre-existing structure onsite being used as part of the reception facility, the applicant must establish a "Type A" evergreen buffer yard along the property line where the 100 foot setback cannot be met.)
 - 1. When a site contains existing vegetation that will remain undisturbed and creates complete visual separation and serves to abate noise levels, the Board of Adjustment, as part of the Special Use Permit consideration process, may reduce the required setbacks of 100 feet to no less than 50 feet.
 - a. If the applicant proposed to use this provision, the following shall be provided as part of the Special Use Permit application:
 - 1. Tree survey showing existing vegetation
 - 2. Landscape plan that provides supplemental plantings as needed to fill gaps that may exist
 - 2. When the applicant demonstrates to the Board of Adjustment that the existing vegetation meets the intent of the buffer requirement that area may be used to satisfy the buffer requirement of standard "I" of this section.
- F. Where waterbodies exist on or near the property, additional setbacks may be required. See Chapter 19, Watershed Protection Ordinance.
- G. Outdoor lights must be shielded to direct light and glare only onto the facilities' premises but may be of sufficient intensity to discourage vandalism and theft. Lighting and glare must be deflected, shaded and focused away from any adjoining properties.
- H. All activities and events occurring on the property of the reception facility shall meet the required noise control ordinance as stated in Section 30-27 of the Cabarrus County Code of Ordinances. The special use permit may also specify additional measures to be taken to control noise, including but not limited to muting, special landscape treatment and berms.
- I. In the event the facility abuts residentially used or zoned property, a Type B buffer yard must be implemented. See Article 11, Landscape Requirements and Tree Protection.
- J. The parcel must have frontage on, or have direct access to, a major or minor thoroughfare, or a privately maintained paved street. Proposed access points on NCDOT roads must be approved by NCDOT. In the event that a privately maintained street is used to gain entry to the site, the applicant shall provide documentation from the private road owner(s) that access to the site for events is permitted.
- K. The facility must provide two parking spaces for the owner/operator, plus one for every four persons in attendance at events. Service providers (staff, caterers, DJ, photographers, etc.) should be included in this calculation at a rate of one for each employee or

contracted staff member. The parking area shall remain grassed (no impervious coverage). However, handicap accessible parking is required to be an improved/hard, stable surface and to meet requirements of the North Carolina State Accessibility Code and Section 12.6 of this Ordinance. All required parking shall be provided in the rear yard and shall be located in such a manner as to not be visible from the public or private right of way. No on-street parking is permitted.

- L. Other than as part of the reception events, no meals shall be served to the general public unless expressly approved as part of the Special Use Permit and site plan approval process.
- M. The following accessory uses may be permitted as incidental to the facility and limited to the patrons of the principal use:
 - Amenity areas, gardens, gazebos
 - Temporary tents shall be allowed for no more than 180 days in a calendar year. Tents may not exceed the square footage of the largest primary structure and must be shown on the site plan. Applicant must procure all necessary permits from the Cabarrus County Fire Marshal's Office for temporary tents.
- N. Signs for Reception Facilities shall be limited to one ground monument sign per establishment. Ground monument signs shall not exceed eight (8) square feet in area nor shall they exceed five (5) feet in height. If such signs shall be illuminated, they shall be externally illuminated.

10.2-17 Event Center (Accessory Use) (*amended 4/11/2023*)

- A. Zoning Districts: OM, OMP
- B. An event center may be established only as an accessory use to another principal commercial use and must be tied together by the issuance of a zoning compliance permit.
- C. ADA parking must be paved.
- D. No on street parking or parking in undesignated areas.
- E. Events must end by 11 pm.
- F. Ingress and egress via foot traffic must be tied from the principle use to the accessory use by means of a sidewalk.
- G. Establishment of event center use must submit a site plan per Article 7 and must comply with all applicable standards of the Midland Development Ordinance and any other local, state and federal regulations.