

ARTICLE 2

GENERAL PROVISIONS

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

2.1.1 General Requirements

Upon the adoption of this Ordinance, no structure shall be erected nor use established in conflict with:

- (A) the district regulations of Article 8,
- (B) the building and lot regulations of Article 9,
- (C) the street regulations of Article 13,
- (D) the off-street parking regulations of Article 12,
- (E) the landscape regulations of Article 11,
- (F) the open space regulations of Article 21,
- (G) the general provisions of Article 2, or
- (H) the sign regulations of Article 17.

2.2 Street Frontage Required

Any lot on which a building (or buildings) is to be erected or use is to be established shall abut a public street with the following exceptions:

- (A) Any lot for which a residential use has been legally established prior to the effective date of this Ordinance provided the lot is served by a private and exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be used as if it abutted a street, provided that it is served by a driveway located on said easement. A driveway accessible by emergency equipment must be located on said easement. Lots created under these provisions shall be known as “easement-access lots”.
- (B) Any lot for which a non-residential use has been legally established prior to the effective date of this Ordinance, provided the lot is served by a private, exclusive recorded easement of at least 15 feet in width connecting said lot to a public street, may be construed in the same manner as a lot abutting a street provided that it is served with a driveway built to appropriate standards located on the permanent, recorded easement.
- (C) Up to four (4) residential lots may be served by a private street meeting the standards for private streets set forth in article the Town of Midland Technical Standards and Specifications Manual.
- (D) A site specific development plan may be considered for approval in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery (MSP) District, Old Midland Periphery (OMP) District, Residential/Main Street Transitional (R/MST) District, Residential/Old Midland Transitional (R/OMT) District, Traditional Neighborhood Development Overlay (TNDO) District where residential and/or non-residential lots and/or structures front upon a private courtyard, carriageway, mid-block private alleyway with courtyard, or pedestrian way, or urban open space as defined in Article 3, where

adequate access by emergency vehicles is maintained by way of a street or *alley* and where the off-street placement of uses does not diminish the orientation of building fronts to the public street.

- (E) A site-specific development plan may be considered for approval in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery District (MSP), Old Midland Periphery District (OMP), NC 24/27 Commercial District(C 24/27), US 601 Commercial District (C 601), Civic District (CIV), or Industrial District (IND) to permit interior lot access by private drives so long as business and emergency access is furnished to all interior building sites and proposed buildings at the perimeter of the development front upon a public street or are buffered in accordance with this Ordinance. Non-residential subdivisions should be primarily served by public streets and use of private drives should be minimal. Private drives may be appropriate where property configuration or environmental constraints make their use a practical alternative. Private drives serving uses in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery District (MSP), Old Midland Periphery District (OMP), NC 24/27 Commercial District(C 24/27), US 601 Commercial District (C 601), Civic District (CIV), or Industrial District (IND) shall be constructed in accordance with the standards for commercial streets as found in the Town of Midland Technical Standards and Specifications Manual and sidewalks shall be provided on at least one side of the private drive.
- (F) To access a lot or lots in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery District (MSP), Old Midland Periphery District (OMP), NC 24/27 Commercial District(C 24/27), US 601 Commercial District (C 601), Civic District (CIV), or Industrial District (IND), where factors beyond developer control, such as a “limited access” highway along the divided cross-sections of NC 24/27, an existing development, or the location of an existing intersection, prohibit completing a street connection, a private drive may be substituted for the interior street which cannot be connected to the public network.

2.3 One Principal Building on a Lot; Exceptions

Only one principal building and its customary *accessory building(s)* may be erected on any lot, except that multiple buildings which, taken together, compose a single principal use may be erected on a single lot as permitted by the district regulations and described by building and lot type.

2.4 Lot Size

No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size such that the requirements for building and lot type cannot be met, or the standards for spacing of structures and street frontage cannot be respected. This prohibition shall not be construed to prevent the purchase, dedication, or condemnation of narrow strips of land for public utilities and/or street and/or sidewalk right-of-way purposes.

2.5 Lot Width

The required width of a lot, as set forth in Article 8 of this Ordinance, shall be measured at the

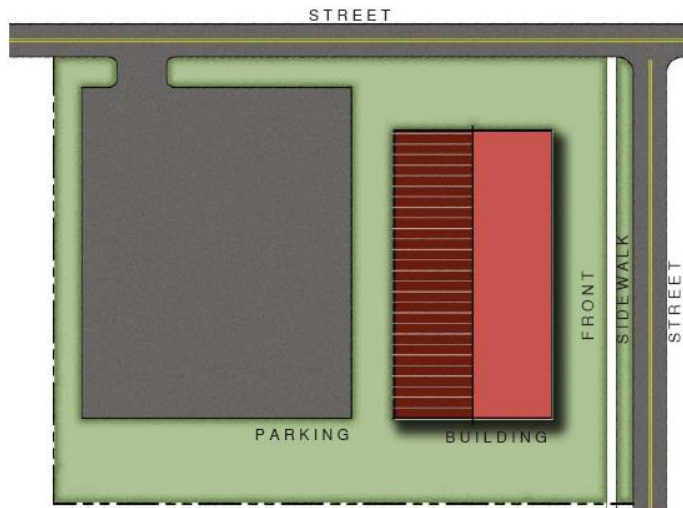
required front setback line.

2.6 Yard Designation

- 2.6-1. Lots Abutting More Than One Street. On lots that abut more than one street, the building and lot shall generally front upon the more pedestrian oriented street, given the arrangement of existing and proposed streets and drives, and the orientation of buildings on adjoining lots.

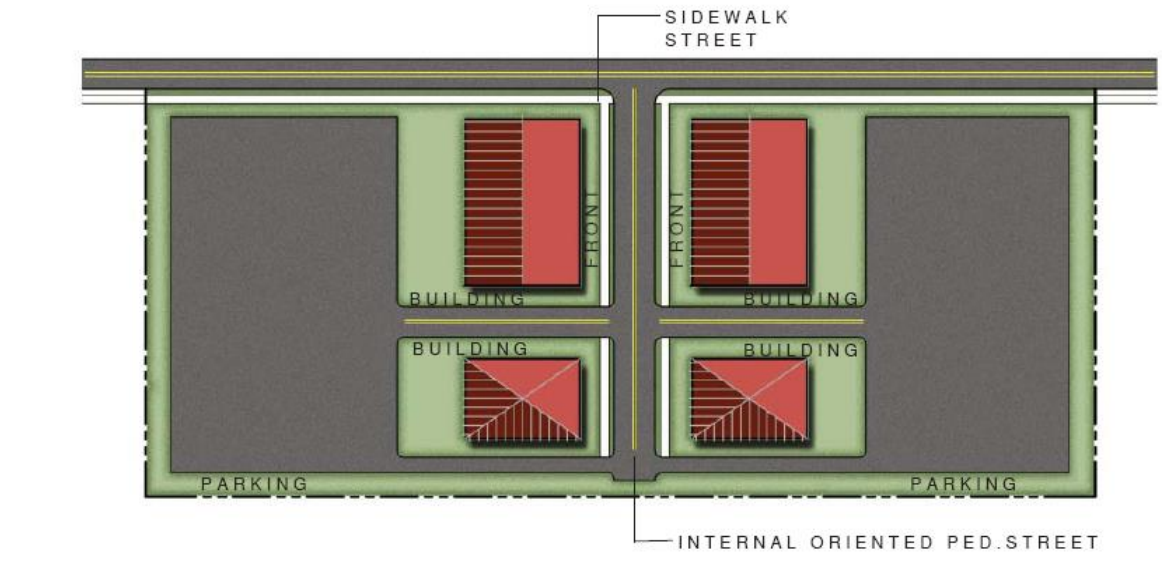
LOTS ABUTTING MORE THAN ONE STREET

One Building Lot



- 2.6-2 Multiple Buildings on a Lot. Where multiple buildings are permitted on a single platted lot, each building shall generally front upon a pedestrian oriented street, external or internal to the development; side and rear yard designations shall be determined on the basis of building orientation.

Multiple Buildings on a Lot



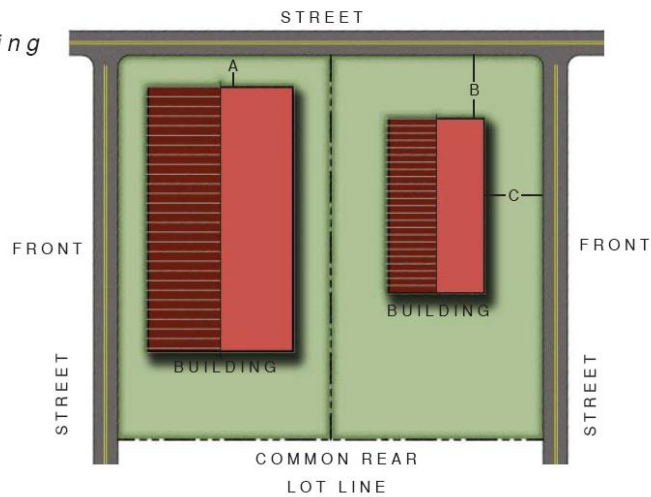
2.6-3 Irregularly Shaped Lots. On irregularly shaped lots, the location of required front, side, and rear yards will be determined by the *Planning, Zoning and Subdivision Administrator*. The determination will be based on the spirit and intent of this Ordinance to achieve an appropriate spacing of buildings and orientation to the street(s).

2.7 Yard Dimensions for Corner Lots.

2.7-1 Two Corner Lots Abutting at Rear. If two corner lots are separated by a common rear lot line, the common side yards of the lots on the street must be at least 50 percent of the greater of the two front setbacks, existing or required.

Two Corner Lots Abutting

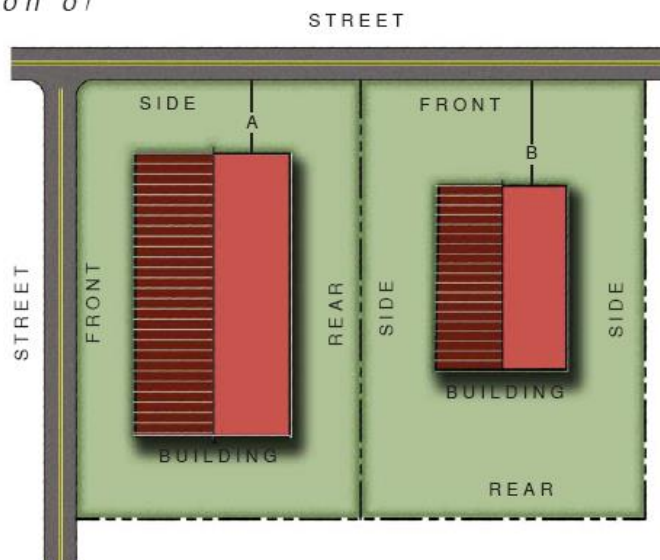
Common side yards on the street (A&B) must be at least 50% of the greater of the 2 front setbacks (C).



- 2.7-2 Side Lot Line a Continuation of Adjacent Lot Front Lot Line. In any district, where the side lot line of a corner lot is substantially a continuation of the front lot line of the lot to its rear, the required side yard of the corner lot shall (a) be at least 50 percent of the established front setback of the adjacent lot or (b) establish a transition between existing buildings by stepping toward the street or back from the street a distance equal to the lesser building setback + one-half of the difference between the setbacks of the adjoining buildings.

Side Lot Line a Continuation of Adjacent Front Lot Line

Sidyard Setback of corner lot (A) shall be at least 50% of established setback of adjacent lot (B).



- 2.7-3 Buildings on Corner Lots. Buildings on corner lots shall be positioned on the corner as required by the building and lot type standards for the zoning district in which the lot is located.

2.8 Through Lots.

If both the front and rear yards of a lot abut public streets, then the rear building line shall respect the alignment of buildings on the back street while the front building line shall respect the alignment of buildings on the fronting street.

2.9 Height Limitation

2.9-1 Building Type Controls. The height of habitable buildings and components is controlled by building type (see Article 9).

2.9-2 Building Components Exceeding Height Limitation. Structures and structural components not intended for human occupancy (including towers, steeples, flagpoles, chimneys, water tanks or similar structures) may exceed the height limit of buildings. Components of civic buildings which extend above the height limit shall follow the standards for the civic building type (see Article 9). When adjacent to a lot or lots located in a residential district, any part of a non-civic structure that extends above the height limit must be separated from the residential lot by a distance equal to its height measured from the ground.

2.9-3 Exceptions to Height Limitation. The height limitations of this section shall not apply to public utility poles and lines, skylights, and roof structures for elevators, stairways, tanks, heating, ventilation and air-conditioning equipment, or similar equipment for the operation and maintenance of a building, and any device used to screen such structures and equipment.

2.9-4 Height of Communication Towers. Commercial communication towers, where permitted, may exceed the height limit for structures when the standards for these towers, as set forth in Article 10, are met.

2.10 Structures and Uses Limited in Yards

2.10-1 No Principal Structure in Setback. No principal building or structure shall be located within any required setback or yard, forward of the build-to line for a principal structure, within any setback or yard established by a recorded plat, nor in any required buffer or screen.

2.10-2 No Accessory Structure in Setback. Except as otherwise provided in this article, no accessory structure shall be located within an established setback or required side yard, nor within five (5) feet of a side or rear lot line. Where permitted, accessory dwellings may be located no closer than four (4) feet to the right-of-way or easement of an abutting mid-block *alley*, nor closer than five (5) feet to an abutting rear property line. Fences, walls, security gates, paths, walkways, mailboxes, utility poles, lighting fixtures, patios at grade, and similar features may be located in an established setback or required yard, so long as the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.

2.10-3 Fences. Fences may be located in any yard, established or required, according to the standards of section 2.13-2 of this Ordinance except that fences extending within the minimum required front yard shall be not be of welded wire mesh, chain link, barbed or razor wire material when located within any residential,

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- 2.10-4 Signs. Signs may be located in an established front setback or a side-yard abutting a public street as permitted by the provisions of Article 17, Sign Regulations.
- 2.10-5 Transit Shelters. Transit shelters may be located in any setback or yard which abuts a street provided the sight triangle on corner lots is protected according to the provisions of section 2.11 of this Ordinance.
- 2.10-6 Off-street Parking. Off-street parking areas, maneuvering areas for parking, and loading areas are prohibited in the established front building setback, which shall be landscaped, in any established side yard abutting a street, which shall be landscaped, and in any required buffer or screen. This restriction shall not apply to:
- (A) a driveway which crosses a front yard to provide access from the street to a parking area;
 - (B) an individual driveway, including conventional appurtenances thereto such as basketball goals, designed to also serve as a parking area for a detached or duplex dwelling;
 - (C) plazas associated with civic buildings that have been designed and approved for occasional use as secondary parking areas;
 - (D) the frontage along a Town street for which a specific streetscape plan and section have been adopted by the Town Council to include limited parking and access in a series of fronting yards;
 - (E) maneuvering areas for loading or delivery activities in the established setbacks and yards of buildings in non-residential zoning districts where the location of buildings that were legally constructed without the provision of these areas preclude them from being located out of established setbacks and yards. Maneuvering areas for parking, loading, or delivery activities are prohibited in the public right-of-way in residential and commercial districts.
- 2.10-7 Outdoor Storage. Neither outdoor storage of goods and materials or refuse containers shall be located in any established setback or established side yard abutting a street, nor in any required buffer or screen, except for the temporary placement of refuse for scheduled curb side collection.
- 2.10-8 Architectural Features. Notwithstanding other provisions of this section, architectural features such as cornices, eaves, bays, *awnings*, steps, gutters, and fire escapes may project up to three (3) feet into an established or required yard; additional encroachment is permitted for certain building and lot types established in Article 9.
- 2.10-9 Subordinate Structures. Subordinate structures attached to single family homes, such as decks, garages, porches, utility rooms, and similar features may extend into the required rear yard up to 25% of the rear yard's depth, and may consume up to 20% of the rear yard's area. Attached rear loading garages accessed from rear *alleys* may extend into the required rear yard to within eighteen (18) feet of

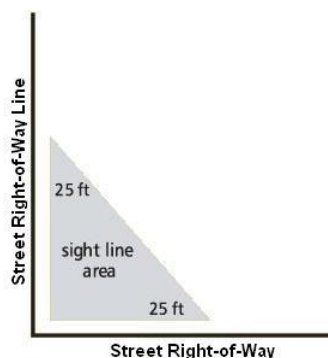
the *alley* right-of-way or easement; however, side loading garages accessed from rear *alleys* may extend into the required rear yard to within three (3) feet of the *alley* right-of-way or easement, and may consume up to 50% of the rear yard's area. Such extensions may not exceed 50% of the width of the dwelling at the rear building line except in attached residential structures.

2.10-10 Backflow Preventers. Above ground backflow preventers are expressly prohibited in the established front yards of buildings where underground backflow preventers or a location outside of the established front yard is technically feasible according to the standards and requirements of Midland Public Works Department. Where there is no reasonable alternative to locating an above ground backflow preventer in the established front yard, the structure housing the device shall be covered in a non-reflective material and shall be surrounded, on all sides visible from public streets and abutting properties, by a landscaped opaque screen that matches that architectural style of the primary building.

2.11 Clear Sight Triangle at Street Intersection

2.11-1 Sight Triangle Required. Unless provided otherwise, a clear view at each corner of an intersection shall be maintained by establishing an unobstructed "sight triangle". The extent of the required sight triangle varies according to the speed limit of streets forming the intersection. For streets signed for greater than 35 MPH, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 35 feet from the point of intersection. For intersecting streets signed for 35 MPH or less, the area to be clear of view obstructions at un-signalized intersections is the triangular area formed by the point of intersection of street right-of-way lines and a point located along each right-of-way line at a distance of 25 feet from the point of intersection.

Site Triangle Illustration for Streets Signed for 35 MPH or less:



2.11-2 No Obstruction in Sight Triangle. No planting, structure, sign, fence, wall, manmade berm, or other obstruction to vision shall be installed, constructed, set out, or maintained so as to obstruct cross-visibility in the sight triangle between 30 inches and 96 inches above the level of the center of the street intersection.

2.11-3 Modifications to Limitations. The limitations of this section may be modified in the instances noted below, so long as adequate visibility is maintained relative to intended speed limit:

- (A) existing natural grades;
- (B) trees trimmed such that no limbs or foliage extend into the area between 30 and 96 inches above the level of the adjacent intersection;
- (C) fire hydrants, public utility poles, street markers, government signs, electrical junction boxes, and traffic control devices;
- (D) buildings located in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery (MSP) District, Old Midland Periphery (OMP) District, or the mixed-use center of the TND District;
- (E) the approved and intentional use of traffic calming techniques to reduce speed; these include, but are not limited to: a series of hill crests, neck-downs, intersection diverters, and curb bulbs.

2.12 Building Separation

All detached principal structures in all districts shall preserve a minimum building separation of 10 feet, except for Urban Workplace, Shop-front Commercial, and Attached House Lot/Building Types in the Main Street (MS) District, Old Midland (OM) District, Main Street Periphery (MSP) District, Old Midland Periphery (OMP) District, or the mixed-use center of the TND District. All detached accessory structures in all districts shall maintain a minimum building separation of 4 feet, as measured from the overhang.

2.13 Permitted Accessory Uses and Fixtures in All Districts

2.13-1 Accessory Uses and Structures. *Accessory uses* and structures that are clearly related to and incidental to the permitted principal use or structure on the lot.

- (A) Detached accessory structures may be built in the side or rear yard but such accessory structures shall not occupy more than thirty (30%) percent of the side or rear yard combined, must be located behind the front plane of the principle structure, and shall not be closer than five feet to any side or rear lot line. (*amended February 11, 2020*)

2.13-2 Fences and Walls. (*amended July 14, 2015*)

- (A) A zoning permit issued by the *Planning, Zoning and Subdivision Administrator* shall be required for all fences and walls. The process for obtaining a zoning permit is set forth in Article 7 of this Ordinance.

- (B) In a residential, mixed use, or commercial district, a fence or wall in the established front yard, side yard, and rear yard of a building abutting a street shall be a minimum of 2.5 feet in height and a maximum of 6 feet in height, unless otherwise regulated by the building or lot type standards (Article 9) of this Ordinance. Fences along interior side property lines in a residential, mixed use, or commercial district shall not exceed 5 feet in height in front of a line parallel to the front of the principal structure on the lot. Decorative caps or spires that extend above the highest horizontal member of the fence shall not be included in the measurement of height. Chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry wall, solid wood fence, or decorative wood or vinyl fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. (For example, a 4' high welded wire fence attached to the interior of a decorative split rail fence or board farm fence of equal height or greater would perform to the standards of this section).
- (C) In a residential or mixed use district, a fence or wall in an established rear yard that abuts an *alley* may not exceed 6 feet in height unless placed 15 or more feet inside property boundary. Within the first 15 feet, fences of chain link or similar material are permitted only if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 3 feet at installation, or if obscured from view by the screening method(s) set out in the paragraph immediately above.
- (D) In a residential or mixed use district, a fence or wall in an established rear or side yard that does not abut a street or *alley* may not exceed 8 feet in height. This measurement is determined by the average height above finished grade within any fifty linear foot section.
- (E) In a commercial district, a fence or wall located outside the established front yard, side yard, and rear yard of a building abutting a street may have a height of up to 8 feet. Fences of chain link or similar material are permitted in the first 15 feet of an established yard abutting a street or *alley* only if placed on the interior side of a masonry wall or solid wood fence and planted with a semi-opaque vegetative screen between wall or fence and street or *alley*. Beyond the first 15 feet abutting a street or *alley*, such materials may be used if screened on the exterior side by evergreen shrubs planted no farther apart than 6 feet on center, minimum height 2½ feet at installation, or if obscured from view by other screening method(s) which perform at the same or a higher level and are approved by the *Planning, Zoning and Subdivision Administrator*.
- (F) In a commercial or industrial district where the side or rear yard abuts a residential or mixed-use district, chain link, welded wire, or similar fencing materials, if used, shall be placed on the interior side of a masonry

wall, solid wood fence, or decorative wood fence that is equal to or greater in height than the secure fencing and demonstrates effective screening capability. Additionally, a semi-opaque vegetative screen shall be required on the exterior side of the fence.

- (G) Fences shall not be erected over easements such as, but not limited to, access easements, utility easements, drainage easements, or any other public easement, without the explicit approval of the Public Works and Planning Services Departments. If fences or other barriers are allowed to cross such easements, the Public Works Administrator may require the installer or landowner to install gates or other access points per standards and specifications set by the Public Works Administrator to ensure access to such easements in the future as necessary and to minimize damage to private property.

2.13-3 **Parking Lots.** For parking lots as principal or *accessory uses*, the landscape and buffering standards of Article 11 shall control.

2.13-4 **On-site Land Clearing and Inert Debris (LCID) Landfill.**

- (A) Any on-site LCID landfill must obtain a permit from and comply with the standards of the Town of Midland, Cabarrus County and the State of North Carolina.
- (B) Any such landfill must be closed in an approved fashion within six months of completion of construction or within 12 months of cessation of construction, if the development project has not been completed.
- (C) The location of any such landfill must be indicated on the sketch site development plan and the final site development plan. Further, any parcel or lot which contains any part of any such landfill must have notification of the existence and extent of the landfill recorded as part of the deed for the lot or parcel.
- (D) No portion of any such landfill may be located within 35 feet of any property line which constitutes the external boundary of the project. This includes structures, equipment storage, parking areas and fill areas, except that access drives may cross this area.
- (E) A surety bond or irrevocable letter of credit in an amount to be determined by the consulting engineer must be provided to ensure that any active landfill area will be closed in an approved fashion. The amount of the bond will be based upon the maximum acreage expected to be in use at any given time.

2.13-5 **Petroleum Storage.** Petroleum storage, accessory to a permitted principal use or

building, shall comply with the Fire Prevention Code of the National Board of Fire Underwriters.

2.13-6 Temporary Construction-Related Uses. Temporary buildings and storage of materials provided the use is in conjunction with the construction of a building on the same lot or on an adjacent lot; the temporary uses shall be terminated upon completion of construction.

2.13-7 Swimming Pools. Swimming pools located on any site, including single family residential sites having a depth of thirty-six (36) inches or greater at its shallowest point, shall be:

- (A) Located in a side or rear yard only;
- (B) Located a minimum of fifteen feet from any property line;
- (C) Completely enclosed by a fence or wall no less than four feet but no more than eight feet, in accordance with the provisions of sub-section 2.13-2 Fences and Walls herein, in height above grade as measured on the side of the fence or wall which faces away from the swimming pool. This fence or wall shall enclose the pool itself and may include any other additional portions of the lot. All fence or wall openings into the pool area shall be equipped with a gate that opens outward away from the pool and shall be self-closing and have a self-latching device. (*amended February 11, 2020*)

2.14 Standards for Construction; Developer Responsibility

Where standards and responsibility for infrastructure construction, including but not limited to streets, sidewalks, and landscaping, are specified in this Ordinance, the Town of Midland Technical Standards and Specifications Manual, or other Ordinances of the Town of Midland, those standards shall control. Where standards are not specified, construction shall be in conformance with the standards set forth in the City of Concord Standards and Specifications Manual.

2.15 Guarantee in Lieu of Construction of Improvements

2.15-1 Provision of Guarantee. In lieu of completion of construction of the required improvements, including but not limited to streets, sidewalks, landscaping, parking, and utilities, prior to issuance of a Certificate of Completion, the property owner or developer may submit to the Town a “performance guarantee” meaning any of the following forms of guarantee:

- (A) Surety bond issued by any company authorized to do business in this State.
- (B) Letter of credit issued by any financial institution licensed to do business in this State; or
- (C) Other form of guarantee that provides equivalent security to a surety bond or

letter of credit. The performance guarantee shall be in an amount equal to a minimum of 100% of the estimated cost of construction and shall not exceed 125% of the estimated cost for labor and materials of completion of the required improvements, as determined by the Town. The performance guarantee shall secure the completion of construction of the improvements. The duration of the performance guarantee shall initially be one year, unless the developer determines that the scope of work for the required improvements necessitates a longer duration. In the case of a bonded obligation, the completion date shall be set one year from the date the bond is issued, unless the developer determines that the scope of work for the required improvements necessitates a longer duration improvements.

- 2.15-2 Construction Easement. The Town of Midland, in its sole discretion, may require a temporary construction easement permitting the Town of Midland or its designee(s) to access the property for the purpose of constructing/installing the guaranteed improvements. Such an instrument shall be provided with the performance Guarantee. The temporary construction easement shall be valid until all guaranteed improvements have been constructed/installed and approved or accepted by the Town. The temporary construction easement shall pass to all successive owners until the guaranteed improvements have been constructed/installed and approved or accepted by the Town and shall be recorded in the office of the Cabarrus County Register of Deeds with recording fees to be paid by the applicant/landowner.
- 2.15-3 Failure to Perform. A developer shall demonstrate reasonable, good-faith progress toward completion of the required improvements that are secured by the performance guarantee or any extension. If the improvements are not completed to the specifications of the local government, and the current performance guarantee is likely to expire prior to completion of the required improvements, the performance guarantee shall be extended, or a new performance guarantee issued, for an additional period. An extension under this subdivision shall only be for a duration necessary to complete the required improvements. If a new performance guarantee is issued, the amount shall be determined by the procedure provided in NCGS 160D-804.1(3) and shall include the total cost of all incomplete improvements. The performance guarantee shall be returned or released, as appropriate, in a timely manner upon the acknowledgement by the local government that the improvements for which the performance guarantee is being required are complete. The local government shall return letters of credit or escrowed funds upon completion of the required improvements to its specifications or upon acceptance of the required improvements, if the required improvements are subject to local government acceptance. When required improvements that are secured by a bond are completed to the specifications of the local government, or are accepted by the local government, if subject to its acceptance, upon request by the developer, the local government shall timely provide written acknowledgement that the required improvements have been completed. The provisions of this section shall not

invalidate any and all requirements for the guaranteed improvements to be covered by warranty or other form of security against material and workmanship deficiencies.

2.16 Regulation of Nuisances

- 2.16-1 Noise. No use shall be operated so as to generate recurring noises that are unreasonably loud, cause injury, or create a nuisance to any person of ordinary sensitivities. No nonresidential use shall be operated so as to generate any noise in an adjacent residential or mixed-use district, as detected in that district without instruments, that is louder than the noise which could be generally expected from uses permitted in that district.
- 2.16-2 Fumes and Odors. No use shall emit fumes, gasses, or odors in concentrations or amounts that cause injury or create a nuisance to any person of ordinary sensitivities on another property.
- 2.16-3 Vibration. No use shall be operated so as to generate inherent or recurring ground vibrations detectable at the property line without instruments.

2.17 General Standards for Driveway Permitting

- 2.17-1 Driveway Permit Required. No driveway or other point of access to a street maintained by either the Town of Midland or the North Carolina Department of Transportation shall be constructed, relocated, or altered unless a driveway permit or other approval is obtained from either the Town of Midland or the North Carolina Department of Transportation. The applicant shall comply with the standards for driveways established by the North Carolina Department of Transportation. All driveway plans shall be reviewed by the Town of Midland prior to construction of the driveway. All driveways shall be paved surfaces within the public right-of-way.
- 2.17-2 Projects Composed of Multiple Buildings and Lots. For development projects composed of multiple buildings and lots, access to the predevelopment existing public street system shall be determined by the location of proposed intersecting streets. No parcel of land which is a functional part of the overall development, even though it may be removed by the developer from the rest of the project area by subdivision or by metes and bounds description, shall be permitted to have driveway access to the public streets bounding the project area without first having secured the approval in sub-section 2.17-1 Driveway Permit Required above.
- 2.17-3 Access to Subdivision Lots. In a residential major subdivision, access to individual lots from streets constructed as part of the subdivision shall be reviewed and approved at the time each building permit is issued.

2.17-4 Location and Design of Access. Determination of the location and design of access to the public street system shall be made by the *Planning, Zoning and Subdivision Administrator, Public Works Administrator* and other regulatory and professional reviewers based on a contextual examination of the site, surrounding development, potential traffic generated on the site, current and future surface transportation system needs, special polices that might exist for the corridor being accessed, and/or state of the practice principles for access management as promulgated by the Institute of Transportation Engineers and the Transportation Research Board.

2.18 Special Requirements for Lots along Thoroughfares

2.18-1 Authorization. pursuant to North Carolina General Statutes 160A-306 and 153A-326 (which state that cities and counties shall have authority to (1) classify all or a portion of the streets within their jurisdictions according to their size, present and anticipated traffic load, and other characteristics relevant to the achievement of the purposes of this section, and (2) establish by Ordinance minimum distances that buildings and other permanent structures or improvements constructed along each class or type of street shall be set back from the right-of-way line or the center line of an existing or proposed street) the following requirements shall apply.

2.18-2. Minimum Setbacks along Thoroughfares. The build-to or set back line for any lot which abuts a thoroughfare classified on the *Cabarrus-Rowan Urbanized Area Thoroughfare Plan* shall be measured from the right-of-way line outlined in the table below (Table 2.18-2) if existing right-of-way is of lesser width. The Proposed Right-Of-Way Line established for each classification of thoroughfare is as follows:

Table 2.18-2

<u>Thoroughfare Classification</u>	<u>Distance from Thoroughfare Center line to "Proposed Right-of-Way Line"</u>
Freeway or Expressway (Class I)	125 feet
Limited Access Arterial (Class II)	100 feet
Commercial Arterial (Class III-C)	50 feet
Major Arterial (Class III)	37.5 feet
Minor Arterial (Class IV)	30 feet

2.18-3 Transitional Setback for Lots along Thoroughfares. A transitional setback or yard shall be established for each lot which abuts a thoroughfare that has an existing right-of-way which is not as wide as the Proposed Right-of-Way Line established for that thoroughfare. The transitional setback or yard area established for lots abutting thoroughfares can be used for any purpose allowed by the particular zoning district, except for those permanent uses which are prohibited in the established setbacks or yards. At the time that the Proposed Right-of-Way Line is dedicated or otherwise acquired for roadway purposes, the property owner shall be responsible for the removal of any uses from the transitional setback or yard that are not otherwise permitted in the yard by the district regulations. The property owner shall have one (1) year from the date of right-of-way acquisition to remove any such uses.

2.18-4 Exceptions. The standards herein prescribing setback from the proposed right-of-way line will not apply to any development for which a preliminary subdivision plan or a conditional zoning district site plan has been approved prior to the effective date of regulations requiring setback from proposed right-of-way lines along thoroughfares. Nor shall they apply to structures in the Main Street District, Old Midland District, Main Street Periphery District, Old Midland Periphery District, or mixed-use center in a TND Overlay District.

2.18-5 Right To Appeal. An affected property owner shall have the right to appeal transitional yard or setback requirements to the *Board of Adjustment* for variance or modification as they apply to a particular piece of property. The *Board of Adjustment* may vary or modify these requirements upon a showing that:

- (A) The peculiar nature of the property results in practical difficulties or unnecessary hardships that impede carrying out the strict letter of the requirements, and
- (B) The property will not be put to reasonable use unless relief is granted, and
- (C) Balancing the public interest in enforcing the setback requirements and the interest of the owner, the grant of relief is required by considerations of justice and equity.

In granting relief, the *Board of Adjustment* may impose reasonable and appropriate conditions and safeguards to protect the interests of neighboring properties. The *Board of Adjustment's* decision shall be subject to review by the superior court by proceedings in the nature of certiorari in accordance with N.C.G.S. 160d-406(k).

2.19 Standards for Residential Garages and Parking in Residential Districts

2.19-1 Narrow Lots - On Lots of Record greater than 50 feet in width, but less than 80 feet in width, established on or after January 1, 2009, minimum required off-street

parking spaces(s), whether enclosed or not, shall be recessed at least 3.5 feet behind the primary front plane of the conditioned space of a residential structure to enable emergency access to occupant area. This provision shall apply to a minimum of seventy percent (70%) of all structures developed under a Major Subdivision. Structures where the garage extends forward of the front facade of the structure (snout houses) shall be limited to thirty percent (30%) of all structures in a major subdivision. *(amended August 13, 2019)*

2.19-2 Exception for Single Family Detached Dwellings with 1100 Square Feet or Less of Heated Space. Single bay front loading garages may be built flush with, but may not project in front of, the primary plane of the front facade of the structure; double bay front loading garages shall be recessed at least 7.5 feet behind the primary plane of the front facade of the structure.

2.19-3 Alley Access for Narrow Lots. On lots 50 feet or less in width, *alley* access is required if on-site parking is provided except as provided below.

2.19-4 Front or Side Entry Garages on Narrow Lots. On lots 50 feet or less in width, attached and detached single-family homes may be permitted to have front or side entry garages if the following conditions are met:

- (A) The arrangement of permanent structural elements of the unit must provide side view screening of a single or double bay front-loading garage. An example of permanent structural screening would be an elevated porch or stoop with steps to ground.
- (B) The finished floor elevation must meet or exceed a height of 36" above grade to qualify under this paragraph. However, this requirement may be waived on projects with an average block cross-slope greater than 5% as measured from the existing ground elevation at the proposed street centerline to the existing ground elevation at the proposed rear lot line.
- (C) For attached single-family homes, the garages may not abut one another.
- (D) Single or double bay side-loading garages shall be permitted for the end unit of an attached house provided the garage is recessed at least 1.5 feet behind the primary plane of the structure.
- (E) A double bay front-loaded off-street parking space, whether enclosed or not, will be permitted only if the average block cross slope is greater than 2% as defined in section 2.19-4(B) and the minimum required off-street parking space, whether enclosed or not, is recessed at least 3.5 feet behind the front setback line, if enclosed the garage shall have a minimum of eight (8) feet in width. This provision shall apply to a minimum of seventy percent (70%) of all structures developed under a Major

Subdivision. Structures where the garage extends forward of the front facade of the structure (snout houses) shall be limited to thirty percent (30%) of all structures in a major subdivision. (*amended August 13, 2019*)

- 2.19-5 Parking on Residential Streets. Parking shall be allowed along all residential streets except along *alleys*, designated bike lanes, within eight (8) feet of a driveway apron, within 15 linear feet of a fire hydrant, and areas specifically signed for no parking.
- 2.19-6 No Parking in Right-of-Way. In no case shall on-site residential parking extend into the public right of way, or into an easement for a public sidewalk on private property.
- 2.19-7 On-Street Parking Meeting Residential Parking Requirement. On-street parking at the lot front may be counted toward all or part of the parking requirement of a dwelling unit provided the standards of sub-section 2.19-5 above are satisfied.
- 2.19-8 Location of Detached Garages. Detached garages may only be placed in the established rear or side yard. Garages exceeding 24' deep x 36' wide in gross area must be detached and located in the established rear yard or be attached to the dwelling and side or rear loading. Detached garages in the side yard must be set back at least 10 feet behind the front plane of the principal residential use.
- 2.19-9 Reserved.
- 2.19-10 Storage of Vehicles on Street. Vehicles shall not be parked on the street for extended periods such that they appear to be stored on the street. The *Planning, Zoning and Subdivision Administrator*, at his/her discretion, may require removal of vehicles that appear to be stored on the street in the interest of protecting the public safety and welfare.
- 2.19-11 Parking of Commercial Vehicles. Vehicles used primarily for commercial purposes and with more than two axles are prohibited from parking on streets, in driveways, or on private property in residential districts. This shall not be construed as preventing the temporary parking of delivery trucks, moving vans, and similar vehicles which deliver goods or services.
- 2.19-12. Parking of Unlicensed Vehicles. Provisions for parking unlicensed vehicles in residentially zoned districts shall be as follows:
- (A) No more than two (2) motor vehicles that do not have a current, valid license plate and are not fully enclosed in a permanent structure shall be permitted outside on any premises, provided such vehicles are registered to the occupant of the premises or immediate family member of the occupant as the record title of the vehicle.

- (B) No unlicensed motor vehicle shall be permitted outside of any premises (i.e., on the street).
- (C) Vehicles described in paragraphs (A) and (B) are not permitted to be located within any established setback or any established side yards which abut a street or any required side yards as mandated by these regulations or any street right-of-way. If stored in the rear yard, the vehicle(s) must be a minimum of five (5) feet off the rear property line.
- (D) Vehicles described in paragraphs (A) and (B) are not permitted on vacant or undeveloped parcels.
- (E) Vehicles described in paragraphs (A) and (B) are not permitted on public streets or public right of way.

2.20 Sidewalks For New Development and Expansion/Improvement of Existing Development

2.20-1 Sidewalks Required. Sidewalks shall be required along new and existing streets, in accordance with the provisions of Sub-section 13.2-3, fronting the following new development and expansions of and improvements to existing development:

- (A) All new commercial development.
- (B) Expansions to an existing commercial development or use where the gross floor area of the expansion is equal to or greater than 50% of the gross floor area of the pre-expansion development or use.
- (C) Improvements to an existing commercial development or use when the cost of the improvement is equal to or greater than 50% of the value of the existing development (building) or use as determined by the Cabarrus County Tax Office.
- (D) All residential development with two (2) or more residential units, except in accordance with Sub-section 13.2-3.
- (E) One single family home on a single lot when the lot being developed is adjacent to a lot on which an existing sidewalk is located and the construction of a sidewalk on the lot being developed would be a logical extension of the pedestrian network.

2.20-2 Sidewalks Along New Streets. Sidewalks shall be required along both sides of new streets, except streets in the Agricultural (AG) District, where sidewalks are not required on the new street.

2.20-3 Sidewalks Along Alleys. Sidewalks shall not be required along *alleys*.

2.20-4 Standards for Sidewalks. Sidewalks shall comply with the design and construction standards set forth in the Town of Midland Technical Standards and Specifications Manual and shall be connected to the back of curb in alignment with all private front walkways.

2.21 Anti-Monotony Standards.

2.21-1 Applicability.

- (A) No building permit shall be issued for any new home that has been determined to be similar in appearance to any home near the proposed home in accordance with the review criteria in Sub-section 2.21-3 below.
- (B) The following homes or projects shall be exempt from the provisions of this section.
 - a. Any subdivision with lots of one acre or more;
 - b. Any home for which a building permit was approved before August 14, 2007, including a home being remodeled, reconstructed or replaced after damage by fire, windstorm or other casualty; and
 - c. Any multifamily units, including apartments.

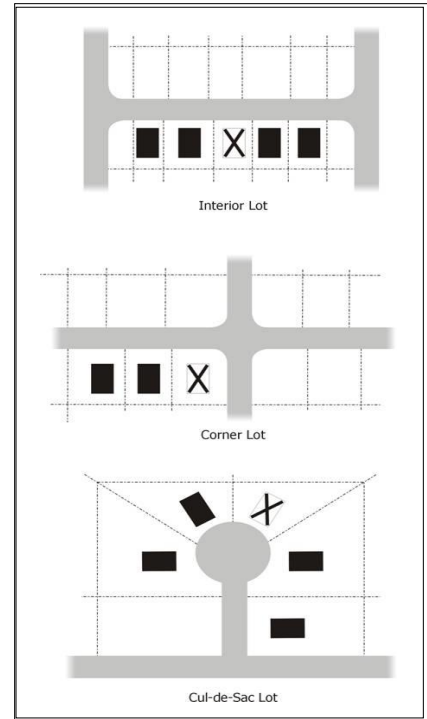


Figure 2-1

2.21-2 Lots to be reviewed.

- (A) Differences shall be reviewed for two lots on either side of the proposed home on the same side of the street.
- (B) Where lots are interrupted by an intervening street, parkland or similar feature of at least 50 feet in width, no review shall be necessary.
- (C) The proposed home shall be considered different from any vacant lot for which no building permit has been issued without requiring further documentation.

2.21-3 Review criteria.

- (A) In determining whether a proposed home is similar in appearance, both of the following requirements shall be met:
 - a) At least one of the following elements of the proposed home must differ from each existing or permitted home (see Figure 2-1):
 - 1) Number of stories;
 - 2) Garage location;
 - 3) Articulation of front façade.
 - b) At least one of the following roof elements must differ from each existing or permitted home (see Figure 2-1):
 - 1) Color of roof;
 - 2) Pitch of roof;

3) Roof material (shingle, metal, terra cotta, etc.).

2.21-4 Review procedure.

(A) Applicant shall provide a copy of the Covenants, Conditions and Restrictions for the proposed subdivision as part of the preliminary plat review process. The Covenants, Conditions and Restrictions shall incorporate the standards established in this section related to anti-monotony within the documents required by Sub-section 16.1-11.

(B) A subdivision or phase of a subdivision shall be reviewed as a whole for conformity with this requirement, provided that adequate documentation to ensure conformity is submitted with the plat. Such documentation is not required to be recorded as part of the plat.

(C) The Town shall review the submitted documentation and make a determination. Where the Town finds that a home for which a building permit is being requested is similar in appearance based on the standards above, the permit shall be denied.