ARTICLE 7

PERMITS AND PROCEDURES

7.1 Permit and/or Approval Required *(amended May 13, 2014)*

7.1-1 Approval Required. No person shall undertake any activity subject to this Ordinance without first obtaining approval from the Town. Upon approval of the activity by the Town, a permit shall be issued for the approved activity. Certain permits are issued by agencies other than the Town of Midland, as noted below; all other permits are issued by the Town.

The permits and/or approvals required are:

(A) ***Zoning permits*** (also known as *Zoning Compliance Permits*) are issued by the Town of Midland for all new building and/or development projects, which also applies to the following:

1. Special Event/Temporary Structures
2. Signage (size, type, location, etc.)
3. Site Development Plan/Preliminary Plat Approval
    a) Zoning compliance (land use, density, open space, connectivity, tree preservation, parking, flood, watershed, etc.)
    b) Public works compliance (utilities, street designs, stormwater, etc.)
    c) Public safety compliance (fire lanes, hydrants, etc.)
    d) Access compliance (driveway, street intersections, etc.)
4. Construction Plans
    a) Infrastructure Plans (streets, water & sewer)
    b) Driveway Permit – NCDOT or Town (based upon responsible maintenance department)
    c) Stormwater Plans (BMP)
    d) Floodplain Development and Certification Permit
    e) Grading Permit - Issued by the North Carolina Department of Environment and Natural Resources (a.k.a. "NCDENR" or "DENR") following issuance of *Zoning permit* by the Town of Midland
5. Subdivision ***Final Plat*** Approval

(B) ***Building Permit*** - Cabarrus County Inspections Department issues building permits following issuance of *Zoning permit* by the Town of Midland

(C) ***Certificate of Occupancy*** (a.k.a. "CO") - Cabarrus County issues upon final inspection and approval by both the Town (regarding site development related improvements and standards) and the County (regarding building code related improvements)

7.1-2 Fees. The Town Council shall establish a Schedule of Fees, Charges and

Expenses, and a collection procedure, for approvals and permits. No approval, permit, certificate, variance, etc. shall be processed and/or issued unless or until such charges have been paid in full.

7.2 Periodic Inspections

The *Planning, Zoning and Subdivision Administrator* shall have the right, upon presentation of proper credentials to enter on any premises within the Town's jurisdiction at any reasonable hour for the purposes of inspection, determination of plan compliance or other enforcement action.

7.3 Permit Expiration

7.3-1 Building Permit Expiration. Under terms of the Town's agreement with Cabarrus County, the County Inspections Department may void a building permit for a project within the Town jurisdiction if the authorized work has not begun within 180 days after issuance of the permit, or work was commenced but was discontinued for a period of one year.

7.3-2 Grading Permit Expiration. Under terms of the Town's agreement with NCDENR, a grading permit issued by the NCDENR is valid for one year unless it is revoked by the Enforcement Officer or the grading project is completed and the appropriate certificates issued by the NCDENR.

7.3-3 Other Permit/Approval Expiration. Permits and approvals other than those identified in sections 7.3-1 and 7.3-2 above shall expire as set forth in the process for each permit and/or approval below.

7.4 Certificates Issued by the County

Under terms of the Town's agreement with Cabarrus County, the County Inspections Department issues certificates of occupancy, temporary certificates of occupancy, and certificates of floor elevation/flood proofing upon completion or partial completion of a project permitted by the County.

7.5. *Zoning permits* (*Zoning Compliance Permit*).

7.5-1 Purpose. A *zoning permit* shall be required for the construction or development of any new use within the planning and regulation jurisdiction of the Town of Midland. In addition to new uses, a *zoning permit* shall also be required for expansions of existing uses, as well as for changes of use. The procedure set forth below shall be followed to obtain a *zoning permit* for the construction of single-family and duplex residential development and expansions of uses and changes of use that do not require permits and/or approvals other than:
(A) Use permit,

(B) Driveway access permit, and/or
(C) Soil erosion and sedimentation plan approval, as set forth elsewhere in this Ordinance.

7.5-2 Pre-application procedure. No pre-application conference is required prior to applying for a *zoning permit*. Applicants are encouraged to call or visit the *Planning Services Department* prior to requesting a *zoning permit* to determine what information is required for the application.

7.5-3 Plan submittal.

(A) Filing of application. An application for a *zoning permit* may be filed by the owner of the property or by an Officer duly authorized to execute on behalf of the owner, specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a *zoning permit* shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B) Fees. An application fee, as established by the Town of Midland, shall be due and payable when the application is submitted.

(C) Information required. Each application for a *zoning permit* shall contain the information required on the application form, including a *Site Plan* showing the dimensions of the proposed use and its location on the property or site. Other information necessary to show that the use or structure complies with the standards set forth in this Ordinance shall also be provided.

7.5-4 Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it is complete within ten working days of its submittal. If the application is found to be incomplete, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator* shall issue a *zoning permit* only upon finding that the proposed use or structure satisfies the requirements set forth in this Ordinance.

7.5-5 Public notification. No public notification is required for *zoning permit* requests.

7.5-6 Formal review. No formal review of *zoning permit* requests is required. Requests shall be reviewed by appropriate Town staff to assure compliance with all applicable regulations and requirements.

7.5-7 Variances. Requests for variances from the requirements set forth in this Ordinance shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.5-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.5-9 Permit validity. Upon the approval of a *zoning permit*, the applicant shall

have one year to obtain the required building permit(s). Failure to obtain requisite building permit(s) within this time shall render the *zoning permit* void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension. Upon issuance of a building permit(s), the *zoning permit* shall remain valid as long as a valid building permit exists for the project. Any unapproved change, as determined by the *Planning, Zoning and Subdivision Administrator* in the approved plans shall render the *zoning permit* invalid.

7.5-10 Violations. Violations of the requirements and conditions of the *zoning permit* shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23.

7.6 Special Events/Temporary Structures permits.

7.6-1 Purpose. To insure that proposed special events and temporary structures comply with the requirements of this Ordinance, no use that is classified as a special event or structure that is classified as a temporary structure and permitted as such in the zoning district in which it is located shall be placed or established on the property without first receiving a special event/temporary structure permit from the *Planning, Zoning and Subdivision Administrator*.

7.6-2 Pre-application procedure. No pre-application conference is required prior to applying for a special event/temporary structure permit. Applicants are hereby encouraged to call or visit the *Planning Services Department* prior to requesting a special event/temporary structure permit to determine what information is required for the application.

7.6-3 Plan submittal.

(A) Filing of application. An application for a special event/temporary structure permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent, files the application, the agent shall provide the *Planning, Zoning and Subdivision Administrator* with documentation that the owner of the property has authorized the filing of the application. The application for a special event/temporary structure permit shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B) Fees. A permit fee, as established by Town of Midland, shall be submitted with the application. In addition, a permit shall be obtained from the Fire Department as required by the fire prevention code.

(C) Information required. Each application for special event/temporary structure permit shall contain the information required on the application form. The application shall be accompanied by a *Sketch Plan* showing the boundaries of the

property, the use of adjacent properties, the location of the special event or structure on the property, access and parking provisions, restroom facilities, and other information sufficient to show that the special event or structure complies with the standards set forth in Article 15 of this Ordinance. Persons seeking issuance of a special event/temporary structure permit for an event shall file an application with a minimum of five (5) days prior to the proposed event date, unless this time frame is reduced by the *Planning, Zoning and Subdivision Administrator*.

7.6-4 Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it provides the information required. The *Planning, Zoning and Subdivision Administrator* shall issue a special event/temporary structure permit only upon finding that the proposed special event or temporary structure satisfies the requirements set forth in Article 15 of this Ordinance.

7.6-5 Public notification. No public notification is required for special event/temporary structure permit requests.

7.6-6 Formal review. Requests shall be reviewed by appropriate Town staff to assure compliance with all applicable regulations and requirements.

7.6-7 Variances. Requests for variances from the requirements set forth in this Ordinance shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.6-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.6-9 Permit validity. The special event/temporary structure permit shall be valid only for the time period stated on the permit.

7.6-10 Violations. Violations of the conditions of the special event/temporary structure permit shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article23.

7.6-11 Public emergencies. In the event of a natural disaster, catastrophic event or public emergency the *Planning, Zoning and Subdivision Administrator* or her/his designee may waive any special event/temporary structure permit procedures and authorize the placement of temporary structures and other facilities that are deemed necessary or desirable in conjunction with the management of the emergency.

7.7. Site Development Plan Review.

7.7-1 Large site development plan review process.

(A) Purpose. The large site development plan review process is required for development projects located within the planning and regulation jurisdiction of the Town of Midland and its extraterritorial jurisdiction which, due to their size, could be expected to have a significant impact upon public services and

facilities. This review process is established to assure that adequate services and facilities can be provided for these developments and to assure that they do not negatively impact the area in which they are proposed to be located or the Town as a whole. Proposed developments involving new construction, additions, renovations, and changes of use which fall into one or more of the following categories are subject to the large site development plan review process:

1. New construction and changes of use.
    a. Commercial buildings, structures, or developments with a gross floor area of more than 1,000 square feet;
    b. Office or institutional buildings, structures, or developments with a gross floor area of more than 2,400 square feet;
    c. Any residential development containing more than 4 individual units.
2. Additions with a gross floor area of 50 percent or more of the above threshold for new construction for that land use, or additions with a gross floor area of 25 percent of the above threshold for new construction for that land use if the resulting total gross floor area, when combined with the existing floor area, would result in a gross floor area meeting or exceeding the above threshold for new construction for that land use if the structure did not previously meet the above threshold. In the case of residential development: additions of 2 or more dwelling units on one parcel of land.

Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.

(B) Pre-application procedure.

1. All applicants for large site development plan review are required to schedule a predevelopment conference with the *Planning, Zoning and Subdivision Administrator* prior to the preparation of development plans. This conference allows the applicant and *Planning, Zoning and Subdivision Administrator* an opportunity to discuss the review process, the requirements for completing the review schedule, contact persons for services and permits, and information regarding *Site Plan*s, landscaping, and development requirements.
2. It is highly recommended that the developer meet with representatives of the *Neighborhood* or area in which the proposed project is to be located. This meeting, which can

be held at the pre-application stage, will allow the developer to explain the proposed project and to be informed of the concerns of the *Neighborhood* or area.

(C) Plan submittal.

1. Application required. An application shall be required for all large site development plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a conceptual *Site Plan*.

   The conceptual *Site Plan* shall contain the following:
   a) Property boundaries with dimensions
   b) PIN for property
   c) Location of adjacent streets and utility easements
   d) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
   e) Location and number of parking spaces
   f) Location and size of buffer and landscape areas
   g) Location of existing and proposed driveways and/or streets
   h) Location of all flood zones (if applicable to the property)
   i) Location of adjoining properties and the zoning and use of these properties
   j) Number of stories and overall height of all structures (existing and proposed)
   k) Location of proposed stormwater detention facilities
   l) Location of existing and proposed dumpster and recycling containers
   m) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc., and
   n) Other information determined by the *Planning, Zoning and Subdivision Administrator* as necessary to evaluate the request.
2. Preparation by professional. *Site Plan*s for developments requiring large site development plan review shall be prepared by a registered architect, engineer, landscape architect, or land surveyor licensed in the State of North Carolina for the work in which he is trained and licensed to perform.
3. Fees. Fees as established by the Town of Midland shall be due and payable upon submittal of the application for large site development plan review.
4. Submittal of application. Applications for large site development plan review, with the required copies of the conceptual *Site Plan*s, shall be submitted to the *Planning, Zoning and Subdivision Administrator* at least 14 days prior to the *Technical Review Committee* (TRC) meeting at which they

will be considered.

(D) Staff review.

1. *Planning Services Department* staff review. Plans for development requiring large site development plan review shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this chapter.
2. Submittal of plans to *Technical Review Committee.* The *Planning, Zoning and Subdivision Administrator* shall present *Site Plan*s for developments requiring large site development plan review to members of the *Technical Review Committee* for review at their next available regular meeting. The *Technical Review Committee* shall review the *Site Plan*s for compliance with the requirements of this Ordinance and other applicable Ordinance s and laws. This review shall be made by the members of the *Technical Review Committee* and by any other agencies or officials as required.

(E) Action by *Technical Review Committee.* Provided the application and conceptual *Site Plan* are complete, the *Technical Review Committee* shall take action within ten working days of reviewing the conceptual *Site Plan*.

1. Approval. If the conceptual *Site Plan* is approved, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant and provide letter of approval and an approved *zoning permit* for the project.
2. Conditional Approval. If the conceptual *Site Plan* receives conditional approval, the applicant shall revise the plan based upon the conditions of the approval and resubmit it. The *Planning, Zoning and Subdivision Administrator* shall review the revised plan. If it meets all of the approval conditions, the conceptual *Site Plan* shall be approved and the *Planning, Zoning and Subdivision Administrator* shall notify the applicant and provide a letter of approval and an approved *zoning permit* for the project.
3. Denial. If the conceptual *Site Plan* is denied, the reasons for denial shall be provided to the applicant in writing. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this section.
4. Continuance. If the conceptual *Site Plan* is tabled or the review is continued, the reasons for the tabling or continuance shall be provided to the applicant in writing. The applicant shall address the reasons for tabling or continuance and the conceptual *Site Plan* shall be reviewed and action taken at the next *Technical Review Committee*

meeting, unless all parties agree to another time.

(F) Public notification. The *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and conceptual plan for large site development approval. This will serve to encourage public involvement in development projects in Midland. This notice for publication shall include the following:

1. Brief description of the large site development project proposed;
2. The time, date, and place at which the project will be available for public review; and
3. Contact information for staff receiving comments concerning the proposed large site development project.

The notice shall be posted in a conspicuous place at Town Hall, on the Town's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. This notice also shall be mailed to the owners, as shown on the County tax listing, of abutting property at least five days before the date on which the request is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. The neighborhood meeting shall include a presentation of the plan and an opportunity for concerned parties to ask questions and be provided responses to those questions. The time, date, and place of the neighborhood meeting shall be provided to the *Planning, Zoning & Subdivision Administrator* at least five days prior to the neighborhood meeting. The mailing list, attendance record and summary of the presentation and comments shall be submitted to the *Planning, Zoning & Subdivision Administrator* within two business days following the neighborhood meeting. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed project, as described in section 7.7-1(B)2 above, this notice also shall be mailed to the owners of any property located within 500 feet of the property in question at least five days before the date on which the request is to be considered. A sign shall be posted on the subject property five days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

(G) Formal review. Applications for large site development plan review are subject to final review by the *Planning, Zoning and Subdivision Administrator.*

(H) Variances. Variances from the requirements of this Ordinance for developments requiring large site development plan approval shall be considered by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(I) Appeals. Appeals of decisions of the *Technical Review Committee*

regarding developments requiring large site development plan approval shall be heard by the *Board of Adjustment* in accordance with the procedures set forth in Article 6 of this Ordinance.

(J) Permit validity. Approval of *Site Plan*s and permits for developments requiring large site development plan review shall be valid for one year from the date of approval. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the site development plan approval void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

(K) Violations. Violations of the approved site development plan shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article 23 of this Ordinance.

7.7-2 Small site development plan review process.

(A) Purpose. The small site development plan review process is required for development projects within the planning and regulation jurisdiction of the Town of Midland and its extraterritorial jurisdiction involving new construction, additions, renovations, and changes of use which do not meet the minimum size requirements of the large site development plan review processes as set forth in subsection 7.7-1.A., but do fall into one or more of the following categories:

1. All new developments not meeting the threshold for large site development plan review, except residential projects containing not more than one dwelling units;
2. Additions with a gross floor area of 100 square feet or more (excluding single-family and duplex residential units);
3. Additions that displace existing parking;
4. Additions that generate the need for more parking;
5. Renovations which exceed 50 percent of the assessed value of the building, as determined by the Cabarrus County Tax Assessor;
6. Changes of use.
7. Properties located within 1,500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be a single development and reviewed as such.

(B) Pre-application procedure. A predevelopment conference with the *Planning, Zoning and Subdivision Administrator* prior to the preparation of development plans is recommended. This conference introduces the applicant to the review process and the information required on the *Site Plan*s, landscaping, development

standards, and to the contact persons for services and permits.

(C) Plan submittal.

1. Application required. An application shall be required for all small site development plan review requests. This application shall contain pertinent information regarding the proposed project and shall be accompanied by a conceptual *Site Plan*. The conceptual *Site Plan* shall contain the following:
   a) Property boundaries with dimensions
   b) PIN for property
   c) Location of adjacent streets and utility easements
   d) Dimensioned footprint and setbacks of the existing and proposed structures with gross floor area indicated
   e) Location and number of parking spaces
   f) Location and size of buffer and landscape areas
   g) Location of existing and proposed driveways and/or streets
   h) Location of all flood zones (if applicable to the property)
   i) Location of adjoining properties and the zoning and use of these properties
   j) Number of stories and overall height of all structures (existing and proposed)
   k) Location of proposed stormwater detention facilities
   l) Location of existing and proposed dumpster and recycling containers
   m) Generalized depiction or description of natural features on and immediately adjoining the site, including streams and other water bodies, steep slopes, areas covered by tree canopy, etc.
   n) Other information determined by the *Planning, Zoning and Subdivision Administrator* as necessary to evaluate the request.

   The application and conceptual *Site Plan* shall be submitted to the *Planning, Zoning and Subdivision Administrator*.
2. Fees. Fees as established by the Town of Midland shall be due and payable upon submittal of the application for small site development plan review.
3. Submittal of application. Applications for small site development plan review, with the required copies of the *Site Plan*s, shall be submitted to the *Planning, Zoning and Subdivision Administrator*. Applications may be submitted at any time.

(D) Staff review.

1. Departmental review. Upon receipt of the application for small site development plan review, the *Site Plan*s shall be distributed to and reviewed by the affected Town staff for compliance with the requirements of this Ordinance and other applicable Ordinance s and laws.

2. Action by reviewing departments. Provided the application and *Site Plan* are complete, all Town staff reviewing the small site development plan shall take action within ten working days of receipt by the staff of the application.
3. Approval. If the small site development plan is approved by a reviewing Town staff person, that staff person(s) shall issue an approval to the *Planning, Zoning and Subdivision Administrator* stating any conditions of the approval. Upon completion of review by all affected Town staff, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant that the reviewing Town staff has completed its review and issued an approval, with any appropriate conditions, for those elements for which the Town is responsible. Notification may be by telephone, facsimile transmission, electronic mail, the Internet, United States mail, or by private mail, wire or messenger service. In all cases, a written copy of the approval along with any conditions shall be attached to the permit released to the applicant by the Planning Services Department. The applicant may then proceed with obtaining zoning, building, construction, and other required permits.
4. Denial. If approval of the small development *Site Plan* is denied, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant in writing of the reasons for denial. Upon notification of denial, the applicant may revise the plan to address the reasons for denial and resubmit it for review or appeal the decision in accordance with the provisions of this Ordinance

(E) Public notification. Public notice shall not be required for small site development plan review requests.

(F) Formal review. Applications for small site development plan review are not subject to formal review.

(G) Variances. Requests for variances from the requirements of this Ordinance for developments requiring small site development plan review shall be considered by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(H) Appeals. Appeals of decisions of the *Planning, Zoning and Subdivision Administrator* regarding the small site development plan review process shall be heard by the *Board of Adjustment* in accordance with the procedures set forth in Article 6.

(I) Permit validity. Approval of the *Site Plan* for projects requiring small site development plan review shall be valid for one year from the date of approval. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the *Site Plan* approval null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this

time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

(J) Violations. Violations of the approved site development plan for developments requiring small site development plan review shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article 23.

7.8. Conditional use approvals. *(amended May 13, 2014)*

7.8-1. Purpose. Conditional uses are established to provide for the location of those uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding *Neighborhood* and the Town of Midland as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. Such individual consideration may also identify cause(s) for the imposition of individualized conditions in order to ensure that the use is appropriate at a particular location and to ensure protection of the public health, safety, and welfare. Any use identified in Section 10.2 of this Ordinance as a conditional use in a zoning district shall not be permitted without the approval of the Town Council in accordance with the requirements and procedures set forth in this section 7.8.

7.8-2. Pre-application procedure.

(A) Conference. Every applicant for a conditional use is required to meet with the *Planning, Zoning and Subdivision Administrator* in a pre-application conference prior to the submittal of a request for approval of a conditional use. The purposes of this conference are to provide additional information regarding the review process and assistance in the preparation of the application.

(B) *Neighborhood* meeting. It is required that the developer meet with representatives of the *Neighborhood* in which the proposed conditional use will be located. This meeting, which should be held at the pre-application stage, will allow the developer to explain the proposed use and to be informed of the concerns of the *Neighborhood*.

7.8-3. Plan submittal.

(A) Filing of application. An application for a conditional use permit may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the

filing of the application. The application for a conditional use permit shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B) Fees. A permit fee, as established by the Town of Midland Town Council shall be submitted with the application.

(C) Information required. Each application for a conditional use permit shall contain all information identified as required by the *Planning, Zoning and Subdivision Administrator*. The application shall be accompanied by at least 4 copies of a *Site Plan* containing all information required by the *Planning, Zoning and Subdivision Administrator*. The application and *Site Plan*s must be submitted at least 14 days prior to the *Technical Review Committee* meeting at which it will be reviewed.

7.8-4. Staff review.

(A) *Planning, Zoning and Subdivision Administrator* review. Following submittal of the application and *Site Plan*s for the conditional use, they shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this section 7.8 of this Ordinance. Provided the application and *Site Plan* are complete, the *Planning, Zoning and Subdivision Administrator* shall schedule the request for review by the *Technical Review Committee*.

(B) Submittal of plans to *Technical Review Committee* ("TRC"). The *Planning, Zoning and Subdivision Administrator* shall present the *Site Plan*s for the conditional use to the TRC at its next regular meeting. The TRC shall review the *Site Plan* for compliance with existing federal, state, and local regulations. This review shall be made by the members of the TRC and by any other agencies or officials as determined by the *Planning, Zoning and Subdivision Administrator*.

(C) Action by *Technical Review Committee.* Upon submittal and review of a complete application for a conditional use permit, the TRC may make one of the following recommendations:

1. Approval. If the TRC recommends approval, the *Planning, Zoning and Subdivision Administrator* shall forward the recommendation and the conditional use application to the Midland *Planning and Zoning Commission* for review.
2. Approval with conditions. If the TRC recommends approval with conditions, the applicant may revise the plan

to meet the conditions of the approval and resubmit it. The revised plan shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and, if it meets all of the conditions, the conditional use application shall be scheduled for a public hearing at the next available meeting of the Midland *Planning and Zoning Commission*. If the plan is not revised to meet conditions within 60 days after action by the TRC or the applicant does not request a review by the *Planning and Zoning Commission* by providing written notice to the *Planning, Zoning and Subdivision Administrator*, the request shall be deemed denied.

3. Denial. If the TRC recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of this chapter. A recommendation for denial by the TRC shall be considered final action on the request unless, within 30 days from receiving the written recommendation of the TRC, the applicant requests a public hearing by providing written notice to the *Planning, Zoning and Subdivision Administrator*. The applicant may revise the *Site Plan* to address the reason for denial and resubmit the revised plan or the applicant may appeal the decision of the TRC to the *Planning and Zoning Commission* to be considered as an administrative *Site Plan* review. The applicant may not resubmit the revised *Site Plan* and appeal the TRC decision.
4. Timing. The TRC shall make its recommendation within ten working days of reviewing the application and *Site Plan*.

7.8-5. Formal review.

(A) Public hearing. Upon receipt of a notice from the *Planning, Zoning and Subdivision Administrator* or the applicant requesting a public hearing on the application and *Site Plan* for a conditional use permit, a public hearing shall be scheduled. A public hearing before the Midland Town Council shall be held for all conditional use permit applications, following review of the request by the Midland *Planning and Zoning Commission*.

(B) Action by Midland *Planning and Zoning Commission*

1. Review of conditional use permit request. A public meeting on those conditional use applications reviewed by

the TRC shall be scheduled by the Midland *Planning and Zoning Commission* following recommendation for approval by the TRC or upon receipt of a request for review from the applicant. The Midland *Planning and Zoning Commission* shall consider the request within 45 days of receiving information regarding the conditional use permit application from the *Planning, Zoning and Subdivision Administrator*.

2. Recommendation by Midland *Planning and Zoning Commission*. Upon submittal and review of a complete application for a conditional use permit, the *Planning and Zoning Commission* may make one of the following recommendations:
   a. Approval. If the *Planning and Zoning Commission* recommends approval, the *Planning, Zoning and Subdivision Administrator* shall forward the recommendation and the conditional use application to the Midland Town Council for review.
   b. Approval with conditions. If the *Planning and Zoning Commission* recommends approval with conditions, the applicant may revise the plan to meet the conditions of the approval and resubmit it. The revised plan shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and, if it meets all of the conditions, the conditional use application shall be scheduled for a public hearing at the next available meeting of the Midland Town Council. If the plan is not revised to meet conditions within 60 days after action by the *Planning and Zoning Commission* or the applicant does not request a review by the Town Council by providing written notice to the *Planning, Zoning and Subdivision Administrator*, the request shall be deemed denied.
   c. Denial. If the *Planning and Zoning Commission* recommends denial of the request, the reasons for denial shall be provided in writing to the applicant. The *Site Plan* may be revised to address the reasons for denial and resubmitted in accordance with the provisions of section 7.8. A recommendation for denial by the *Planning and Zoning Commission* shall be considered final action on the request unless, within 30 days from receiving the written recommendation of the *Planning and Zoning Commission*, the applicant requests a public hearing by providing written notice to the *Planning, Zoning*

and Subdivision Administrator. The applicant may revise the *Site Plan* to address the reason for denial and resubmit the revised plan or the applicant may appeal the decision of the *Planning and Zoning Commission* to the Town Council. The applicant may not resubmit the revised *Site Plan* and appeal the *Planning and Zoning Commission* decision.

3. Timing. The *Planning and Zoning Commission* shall make its recommendation within ten working days of reviewing the application and *Site Plan*.

(C) Action by the Midland Town Council.

1. Review of conditional use permit request. A public hearing on those conditional use applications reviewed by the Midland *Planning and Zoning Commission* shall be scheduled by the Midland Town Council following action by the *Planning and Zoning Commission*. The Midland Town Council shall consider the request within 45 days of receiving information regarding the conditional use permit application from the *Planning, Zoning and Subdivision Administrator*.
2. Decision by Town Council. The Midland Town Council, after conducting the public hearing, may: (1) deny approval; (2) table the application pending submittal of additional information; or (3) approve the proposed conditional use permit.

(D) Findings and Conditions. In granting the permit, the Council shall find:

1. That the use or development is located, designed, and proposed to be operated so as to maintain or promote the public health, safety, and general welfare;
2. That the use or development complies with all required regulations and standards of this Ordinance and with all other applicable regulations;
3. That the use or development is located, designed, and proposed to be operated so as not to substantially injure the value of adjoining or abutting property, or that the use or development is a public necessity; and
4. That the use or development will be in harmony with the area in which it is to be located and conforms with the general plans for the land use and development of Town of Midland and its environs.

There shall be competent, material, and substantial evidence in the record to support these conclusions and the Town Council must

find that all of the above exist or the application will be denied.

(E) Additional Conditions. In granting the conditional use permit, the Town Council may designate only those reasonable and appropriate conditions, in addition and in connection therewith, as will, in its opinion, assure that the use in its proposed location will be harmonious with the area in which it is proposed to be located, with the spirit of this Ordinance and clearly in keeping with the public welfare. All such additional conditions shall be entered into the minutes of the meeting at which the conditional use permit is granted, on the conditional use permit itself, and on the approved plans. All specific conditions shall run with the land and shall be binding on the original applicants, their heirs, successors, and assigns.

The minutes of the Midland Town Council shall state if the proposed conditional use meets or does not meet each of the conditions set forth in section 7.8-5.(D), the standards set forth in Article 10 of this Ordinance for the proposed conditional use, and all other requirements set forth by this Ordinance for the proposed conditional use. The decision on the conditional use application shall be by a simple majority vote of those members so the Midland Town Council present at the meeting at which the action is taken.

7.8-6. Transfer of approval. A conditional use approval is not transferable from one property to another, but may be transferred to a subsequent owner of the property.

7.8-7. Resubmission of denied applications. No application for approval of a conditional use shall be filed with or accepted by the *Planning, Zoning and Subdivision Administrator* that is identical or substantially similar to an application that has been denied by the Midland Town Council within one year of the final action by the Town Council denying the request. This waiting period may be waived in an individual case, for good cause shown, by the affirmative vote of three-fourths of the members of Town Council.

7.8-8. Public notification. Notice of public hearings or public meetings required under this section for conditional use approvals shall be provided in accordance with the requirements established by the North Carolina General Statutes for public meeting notification. In addition, the *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and *Site Plan* for a conditional use permit approval. This will serve to encourage public involvement in development projects in Midland. This notice for publication shall include the following:

(A) Brief description of the conditional use project proposed;
(B) The time, date, and place at which the request will be considered; and
(C) Contact information for staff receiving comments concerning the proposed conditional use.

The notice shall be posted in a conspicuous place at Town Hall, on the Town's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed project, as described in section 7.8-2(B) above, this notice also shall be mailed to the owners of abutting property and any other property located within 500 feet of the property in question at least ten days before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property ten days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

7.8-9. Project phasing. If a project approved as a conditional use is to be developed in phases, a master plan for the entire development site must be approved by the Midland Town Council at the same time and in the same manner the conditional use permit application is considered.

(A) Final plans for phases of the conditional use may be submitted in stages and shall be approved by the *Planning, Zoning and Subdivision Administrator* provided that the following requirements are met:
1. All stages shall be shown with precise boundaries on the master plan and shall be numbered in the expected order of development.
2. Each phase must be able to exist independently of subsequent phases by meeting all applicable laws and regulations as if the phase were a separate project.
3. All the data required for the project as a whole shall be given for each stage shown on the plan.
4. A proportionate share of the open space, common facilities, amenities, play areas, etc. shall be included in each stage of the development, except that centralized common facilities shall be guaranteed by bond or other irrevocable financial instrument valid for the duration of the project implementation period.
5. The phasing shall be consistent with the traffic circulation, drainage, and utilities plan for the entire master plan for the conditional use.
6. Each phase of the conditional use must comply with any and all conditions attached to the approval of the conditional use permit by the Midland Town Council.

7.8-10. Variances. In issuing conditional use permits, the Midland Town Council may prescribe dimensional requirements (height, setback, etc.) that are

different from the requirements of the corresponding general zoning classification, and may prescribe development and design standards that are different from those set out in Article 9; provided, that any request for a modification to a dimensional requirement or development and design standard that is less restrictive than would be applicable for the underlying general zoning classification must be specifically described in any notices required for the public hearing on the conditional use permit application, and must be set out separately in any Ordinance issuing said conditional use permit, together with an explanation of the reason for the modification. Except as modified pursuant to this paragraph, all standards and requirements applicable to the underlying general zoning district must be met. Variances to the standards established by any conditional use permit shall not be allowed.

7.8-11. Appeals. An appeal from the decision of the Midland Town Council regarding a conditional use application and *Site Plan* may be made by an aggrieved party and shall be made to the Superior Court of Cabarrus County in the nature of certiorari. Any such petition to the Superior Court shall be filed with the court no later than 30 days after a written copy of the decision of the Town Council is received by the applicant.

7.8-12. Permit validity. Approvals of a conditional use application and *Site Plan* shall be valid for one year from the date of approval by the Midland Town Council. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the conditional use approval null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six (6) months upon submittal by the application of sufficient justification for the extension. Permits for the phased development of a conditional use project shall remain valid for the time approved by the Midland Town Council as part of the conditional use approval of the master plan for the conditional use.

7.8-13. Failure to Comply with Plans or Conditions. In the event of failure to comply with the plans approved by the Town Council or with any other conditions imposed upon the conditional use permit, the permit shall thereupon immediately become void and of no effect. No building permits for further construction or certificates of occupancy under this conditional use permit shall be issued. If a failure to comply with conditions in a conditional use permit occurs after occupancy, the owner, lessee, or other responsible person shall be notified in writing of the violation. No earlier than five days after the receipt of the written notice, the body issuing the conditional use permit may issue a finding of fact that a violation of the requirements of this Ordinance exists. If such finding of fact is made, it shall be unlawful for any person, firm or corporation to continue the conditional use until the responsible party makes the necessary corrections and the Town Council conducts a public hearing and finds that the

violation no longer exists.

7.8-14. Violations. Violations of the conditional use permit or of any of the conditions attached to the approval shall be considered a violation of this Ordinance and subject to the enforcement and penalty provisions of Article23 of this Ordinance.

7.9. Uses with Additional Standards.

7.9-1. Purpose. Uses with additional standards are uses permitted by right, provided that the additional standards set forth in Section 10.1 of this Ordinance are met. The additional standards are intended to ensure that the uses fit the intent of the zoning districts within which they are permitted, and that the uses are compatible with other development permitted within the zoning districts. Review and approval of these uses are handled by the *Planning, Zoning and Subdivision Administrator*, who has no discretion to modify the additional standards.

7.9-2. Pre-application procedure. A pre-application conference is not required for approval of uses with additional standards. Applicants are encouraged, however, to contact the *Planning, Zoning and Subdivision Administrator* to discuss the additional standards.

7.9-3. Plan submittal.

(A) Filing of application. An application for a permit for a use with additional standards may be filed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application. The application for a permit for a use with additional standards shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form provided by the *Planning, Zoning and Subdivision Administrator*.

(B) Fees. A permit fee, as established by the Town of Midland Town Council, shall be submitted with the application.

(C) Information required. Each application for a permit for a use with additional standards shall contain all information required by the *Planning, Zoning and Subdivision Administrator*. The application shall be accompanied by a *Site Plan* meeting the requirements for *Site Plan*s as established by section 7.7 of this Ordinance.

7.9-4 Staff review. Notwithstanding the procedures applicable in section 7.7 of this Ordinance, the *Planning, Zoning and Subdivision Administrator* shall

review the proposed use and determine if the additional standards for that use have been met. If the additional standards have been met, the use shall be approved provided all other applicable standards and procedures have been met. Failure to meet all the additional standards shall result in denial of a permit for the proposed use. The *Planning, Zoning and Subdivision Administrator* shall approve or deny the proposed use with additional standards or request more information, if needed, within ten working days of submittal. If the application is found to be incomplete, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps will be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator* shall approve the use only upon finding that the proposed use satisfies all applicable requirements set forth in this Ordinance.

7.9-5 Public notification. Public notification is not required, unless required by section 7.7 or 7.8 of this Ordinance.

7.9-6 Formal review. Formal review of the application by an elected/appointed board or committee is not required, unless required by section 7.7 or 7.8 of this Ordinance.

7.9-7 Variances. Variances from the additional standards constitute "use variances" and shall not be permitted.

7.9-8 Appeals. Appeals of decisions of the *Planning, Zoning and Subdivision Administrator* regarding applications for a use with additional standards shall be heard by the *Board of Adjustment* under the procedures established in Article 6.

7.9-9 Permit validity. The permit for a use with additional standards shall be valid for one year from the date of its issuance. Failure to initiate construction or otherwise begin the permitted use within this time shall render the permit void. The *Planning, Zoning and Subdivision Administrator* may grant a single extension of this time period of up to six months upon submittal by the applicant of sufficient justification for the extension.

7.9-10 Violations. Failure to establish or maintain the additional standards is considered a violation of this Ordinance and shall subject the offender to the enforcement and penalty provisions of Article 23 of this Ordinance.

7.10. Sign permits.

7.10-1 Purpose. In order to regulate the provision of sign standards and sign restrictions within the planning and regulation jurisdiction of the Town of

Midland, it shall be unlawful to erect or maintain any sign or sign structure without first obtaining a sign permit.

7.10-2 Pre-application procedure. There is no pre-application procedure for sign permits.

7.10-3 Application submittal.

(A) Filing of application.

1. An application for a sign permit may be filed by the owner of the property or sign or by an agent specifically authorized by the owner to file such application. The application for a sign permit shall be filed with the Town of Midland *Planning Services Department* on a form provided by the *Planning, Zoning and Subdivision Administrator*.
2. Sign contractor's license. No person shall engage in the business of erecting or maintaining signs in the Town of Midland unless said person has been issued a sign contractor's license which has not expired at the time said work is done. This requirement shall exclude those persons who construct and erect a principal use identification sign when that sign is used at that person's place of business, provided all construction and installation is properly permitted and inspected for compliance with the applicable building codes of the Town of Midland and other sections of this Ordinance.

(B) Fees. A permit fee as established by the Town of Midland shall be submitted with the application. Work performed without a permit shall be subject to a late fee. When any permit has been revoked under the terms of this Ordinance, the permit fees shall not be refunded. If a sign permit is denied, however, the permit fee will be refunded.

(C) Information required. Each application for a sign permit shall be accompanied by complete information as required by the *Planning, Zoning and Subdivision Administrator* and shall include, without being limited to, a *Site Plan* and elevation drawings of the proposed sign, a drawing of the building facade indicating the proposed location of the sign (if the sign is to be attached to a building), height, dimensions and square footage of the proposed sign and any other data as the *Planning, Zoning and Subdivision Administrator* may determine to be necessary for review of the application.

7.10-4 Staff review. Provided the application is complete, the *Planning, Zoning and Subdivision Administrator* shall review the application and determine whether it is complete within ten working days of its submittal. If the application is incomplete, the *Planning, Zoning and Subdivision Administrator* shall notify the applicant of any deficiencies. No further steps shall be taken to process the application until the applicant corrects the deficiencies. The *Planning, Zoning and Subdivision Administrator*

shall issue a permit only upon finding that the proposed sign or sign structure satisfies the requirements of Article 17.

7.10-5 Public notification. No public notification is required for sign permit requests.

7.10.6 Formal review. No formal review of sign permit requests is required.

7.10-7 Variances. Requests for variances from the requirements for signs set forth in this chapter shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.10-8 Appeals. Appeals of the decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment* under the procedures established by Article 6.

7.10-9 Permit validity. Upon issuance of a sign permit, the applicant will have six months to commence work on the approved signage, after which the permit shall automatically become null and void. The *Planning, Zoning and Subdivision Administrator* may grant a single 60-day extension of time within which operations must be started or resumed. All requests for such extensions and approval thereof shall be in writing.

7.10-10 Violations. Violations of the conditions of a sign permit shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.11 *Subdivision Plat* Approval.

7.11-1 *Major Subdivision*s.

(A) Purpose. The *Major Subdivision* review process is required for those divisions of land as described below. Review and approval of the *Preliminary Plat* by the *Technical Review Committee* is required under the *Major Subdivision* review process, with review and approval of the *Final Plat* by the *Planning, Zoning and Subdivision Administrator*.

(B) Pre-application procedure.

1) Conference. It is required that every applicant for a *Major Subdivision* meet with the *Planning, Zoning and Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plat*s for approval.

2) *Sketch Plan*. A *Sketch Plan* shall be submitted to the *Planning, Zoning and Subdivision Administrator* prior to or at the pre-application conference. Upon submittal of the *Sketch Plan*, the *Planning, Zoning and Subdivision Administrator* shall conduct an initial review to determine whether the proposed *Subdivision* is a *Major Subdivision*.

3) *Neighborhood* meeting. It is highly recommended that the developer meet with representatives of the *Neighborhood* in which

the proposed *Subdivision* is to be located. This meeting, which should be held at the pre-application stage, will allow the developer to explain the proposed *Subdivision* and to be informed of the concerns of the *Neighborhood*.

(C) *Preliminary Plat*/*Site Plan* submittal.

1. *Preliminary Plat*(s) required. A *Preliminary Plat*(s) for a proposed *Major Subdivision* shall be prepared by a professional land surveyor, licensed landscape architect, or licensed engineer and shall be prepared in accordance with the standards set forth by the *Planning Services Department* and applicable state standards.
2. Filing of application. A complete application packet containing all information as required by the Town of Midland shall be submitted according to the established schedule prior to the *Technical Review Committee* meeting at which they are to be reviewed.
3. Public notification. The *Planning, Zoning and Subdivision Administrator* shall prepare a public notice as described herein below which indicates the official receipt of an application and *Preliminary Plat* for *Major Subdivision* approval. This notice for publication shall include the following:
    a. Brief description of the *Major Subdivision* proposed;
    b. The time, date, and place at which the project will be available for public review; and
    c. Contact information for staff receiving comments concerning the proposed *Subdivision*.

    The notice shall be posted in a conspicuous place at Town Hall, on the Town's website, or a combination of these two, at least five days prior to the date on which the application is to be considered. The applicant is encouraged to conduct a *Neighborhood* meeting to inform nearby property owners of their intentions for development. The neighborhood meeting shall include a presentation of the plan and an opportunity for concerned parties to ask questions and be provided responses to those questions. The time, date, and place of the neighborhood meeting shall be provided to the *Planning, Zoning & Subdivision Administrator* at least five days prior to the neighborhood meeting. The mailing list, attendance record and summary of the presentation and comments shall be submitted to the *Planning, Zoning & Subdivision Administrator* within two business days following the neighborhood meeting. Should the applicant not hold a *Neighborhood* meeting to discuss the proposed *Subdivision*, as described in section 7.11-

1(B)3. above, this notice also shall be mailed to the owners of any other property located within 500 feet of the property in question at least five days before the date on which the request is to be considered. A sign stating the above information shall be posted on the subject property five days before the date on which the application is to be considered if the recommended *Neighborhood* meeting is not held.

Where municipal water and/or sewer are not available, the *Planning, Zoning and Subdivision Administrator* shall send a copy of the *Plat* to the County Health Department for review.

4. Review at *Technical Review Committee*. The *Preliminary Plat* of a proposed *Major Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* and other Town staff for compliance with these *Subdivision* regulations. The *Planning, Zoning and Subdivision Administrator* shall then present the *Preliminary Plat* of *Major Subdivision*s to the *Technical Review Committee* ("TRC") at the next regular meeting of the TRC following receipt of the *Preliminary Plat*. For purposes of this section, the TRC is designated as a planning agency of the Town of Midland. The TRC shall review the *Preliminary Plat* for compliance with existing applicable regulations. If the *Preliminary Plat* is approved the applicant may proceed with infrastructure construction and *Final Plat* approval. If the *Preliminary Plat* is not approved, the TRC shall set forth in writing the reasons for denying approval of the *Plat*. The applicant may revise the *Plat* and resubmit it. The revised *Plat* shall be reviewed by the *Planning, Zoning and Subdivision Administrator*, and if it is revised in accordance with the directions provided by the TRC the *Preliminary Plat* shall be presented at the next regular meeting of the TRC. If the *Plat* is not revised within 60 days to comply, it shall be deemed denied; provided, however, the *Planning, Zoning and Subdivision Administrator* may extend the time period for compliance upon a showing by the applicant that additional time is needed to comply. Such notice for a request to extend the time period must come to the *Planning, Zoning and Subdivision Administrator* in writing prior to the 60 day grace period expiring. If 60 days lapses between the time the TRC has returned *Plat*s/plans to the applicant or applicant's agent, it shall be deemed denied and the applicant must reapply. Such reapplication shall require the repayment of fees.
5. Appeals. Actions taken by the TRC with respect to *Preliminary Plat*s, or a failure by the TRC to take action within 35 days after it has received a *Preliminary Plat*, may be

appealed to the Midland *Planning and Zoning Commission*, which shall conduct a public hearing on the question of approval of the *Preliminary Plat*. Notice for said public hearing shall be provided in accordance with the procedure for notification set forth in section 7.11-1(C)3 above.

6. Permit validity. Approval of the *Preliminary Plat* for *Major Subdivision*s shall be valid for two years from the date of approval by the Town of Midland *Technical Review Committee*. The *Final Plat* for the *Major Subdivision* shall be presented for approval prior to the end of this two-year period. Phased *Subdivision*s shall be exempt from this time limit as set forth in section 7.11-1(E)2 below.

(D) *Final Plat*. *Plat*s for *Major Subdivision*s shall be prepared by a professional land surveyor in accordance with the standards set forth by the *Planning Services Department* and applicable state standards. The *Final Plat* of a *Major Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with the requirements of this Ordinance and for conformity with the approved *Preliminary Plat*. Substantial changes from the *Preliminary Plat*, as determined by the *Planning, Zoning and Subdivision Administrator*, shall require an additional review by the *Technical Review Committee*, as determined by the *Planning, Zoning and Subdivision Administrator*, to ensure compliance with existing regulations. No *Final Plat* shall be approved by the *Planning, Zoning and Subdivision Administrator* until all improvements are installed or their execution guaranteed as permitted by this Ordinance and all certificates required for final *Plat*s by this Ordinance or approvals by state law have been properly completed and signed. The *Final Plat* shall be prepared in compliance with the requirements set forth in the checklist for *Final Plat*s provided by the *Planning, Zoning and Subdivision Administrator*. Provided the *Final Plat* is complete, and no further review is determined to be required, the *Planning, Zoning and Subdivision Administrator* shall act on the *Final Plat* of *Major Subdivision*s within ten working days of receipt of the *Plat*. The *Planning, Zoning and Subdivision Administrator* is authorized to approve the *Final Plat* and to grant approval for recording and acceptance of dedications. Following *Final Plat* approval, the applicant shall record the *Plat* for a *Major Subdivision* in accordance with this subsection.

(E) Signatures and recordation.

1. Signatures. Upon approval of a *Final Plat* for *Major Subdivision*s, the *Plat* shall be signed in the appropriate place by the *Planning, Zoning and Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval for recording.

2. Recordation. A *Final Plat* for *Major Subdivision*s shall be recorded by the Town of Midland in the office of the register of deeds for Cabarrus County in compliance with North Carolina General Statutes within 60 days following approval by the Town of Midland. No *Subdivision Plat* shall be considered finally approved until the *Plat* has been recorded. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* is not recorded in the office of the register of deeds within two years of the approval by the Town of the *Preliminary Plat*, the *Preliminary Plat* shall be resubmitted to the *Planning Services Department* for consideration following the process set forth in this chapter. *Final Plat*s for *Subdivision*s developed in phases shall be recorded in accordance with the schedule presented by the applicant during the *Preliminary Plat* approval and approved as part of the *Preliminary Plat* approval process. If the *Final Plat* of all or part of the area shown on an approved *Preliminary Plat* for a *Major Subdivision* to be developed in phases is not recorded in the office of the register of deeds within the schedule approved by the Town, the *Preliminary Plat* shall be resubmitted to the *Planning Services Department* for consideration following the process set forth in this chapter.

(F) Appeals. If *Final Plat* approval for a *Major Subdivision* is denied, the applicant may appeal the decision to the *Planning and Zoning Commission*. Such an appeal must be taken within 30 days after denial.

(G) Fees. For all categories of *Subdivision*, fees as established by the Town of Midland shall be due and payable when the application is submitted.

7.11-2 *Minor Subdivision*s**.**

(A) Purpose. The *Minor Subdivision* review process is required for those divisions of land described below. Review and approval of the preliminary and *Final Plat* by the staff permits a speedy review while ensuring that the proposed *Subdivision* meets all requirements established by the Town of Midland.

(B) Pre-application conference. It is recommended that every *Subdivision* applicant meet with the *Planning, Zoning and Subdivision Administrator* in a conference prior to the submittal of a *Subdivision Plat*. The purpose of this conference is to provide clarification and assistance in the preparation and submission of *Plat*s for approval.

(C)*Plat* submittal.

1. *Plat* required. *Plat*s for *Minor Subdivision*s shall be prepared by a professional land surveyor in accordance with the standards set forth by the *Planning Services Department* and applicable state standards.
2. Filing of application. *Plat*s and a complete application packet containing all information established by the *Planning Services Department* for *Minor Subdivision*s shall be submitted to the *Planning, Zoning and Subdivision Administrator* and may be presented at any time.

(D) Staff review. The *Plat* for a proposed *Minor Subdivision* shall be reviewed by the *Planning, Zoning and Subdivision Administrator* for compliance with these *Subdivision* regulations. The review shall also include compliance by the *Plat* with other Ordinance s and regulations of the Town of Midland. The *Plat* shall be prepared in compliance with the requirements set forth in the checklist for final *Plat*s provided by the *Planning, Zoning and Subdivision Administrator*. Provided the application is complete, the *Planning, Zoning and Subdivision Administrator* shall take action on the *Plat* of the proposed *Minor Subdivision* within ten working days of its submittal. Following approval, the applicant shall record the *Plat* for a *Minor Subdivision* in accordance with this subsection.

(E) Public notification. No public notification is required for *Minor Subdivision* review.

(F) *Final Plat*s approval.

1. Recordation and signatures.

a. Signatures. Upon approval of a *Plat* for *Minor Subdivision*s, said *Plat* shall be signed in the appropriate place by the *Planning, Zoning and Subdivision Administrator* and by the owner(s). Additionally, approval shall be shown by a Certificate of Approval for recording.

b. Recordation. A *Plat* for *Minor Subdivision*s shall be recorded by the Town of Midland in the office of the register of deeds for *Cabarrus* County within 60 days following approval by the *Planning, Zoning and Subdivision Administrator*. No *Plat* shall be considered finally approved until the *Plat* has been recorded. No lots in a *Subdivision* shall be sold prior to approval by the *Planning, Zoning and Subdivision Administrator* and recording of a *Plat* for the *Subdivision*.

(G) Permit validity. *Minor Subdivision Plat*s which have been granted approval shall be recorded as set forth in section 7.11-2.F above within 60 days following approval or the approval becomes invalid.

(H) Appeals. Decisions of the *Planning, Zoning and Subdivision Administrator* with regard to *Minor Subdivision*s may be appealed to

the Midland *Planning and Zoning Commission*. Such an appeal must be made within 30 days of the receipt of the decision by the property owner. The appeal shall be in writing and delivered to the Planning Department.

(I) Fees. For all categories of *Subdivision*, fees as established by the Town of Midland shall be due and payable when the application is submitted.

7.12. Floodplain development and certification permit.

7.12-1 Purpose. No approval shall be granted for construction in an area designated as a special flood hazard area as shown on the *Flood Insurance Rate Maps (FIRM)* for the Town of Midland, as provided by the Federal Emergency Management Agency, and also adjoining lands, which, because of their characteristics, the Town determines as being susceptible to flooding or determines as being susceptible to flooding or damage by flooding until the requirements of Article 18 of this Ordinance are met. Procedures for assuring compliance with these requirements are set forth below.

7.12-2 Pre-application procedure. Developers are encouraged to meet with the *Planning, Zoning and Subdivision Administrator*, appointed by the Town Council on August 10, 2010 as the Floodplain Administrator, prior to submitting an application for development in the designated flood hazard area. This will provide developers with the opportunity to obtain information regarding details of the application process and regulations affecting development within special flood hazard areas.

7.12-3. Plan submittal.

(A) Application required. Application for a floodplain development permit shall be made to the *Planning Services Department* prior to performing grading, development, or construction on lands designated as special flood hazard areas. Applications shall be made on forms furnished by the *Planning, Zoning and Subdivision Administrator*, shall provide all requested information, and shall be accompanied by a *Site Plan*. The application, with all requested information, and *Site Plan* shall be provided to the *Planning, Zoning and Subdivision Administrator*.

(B) Plan required. A *Site Plan* drawn to scale shall be provided with the application for a floodplain development permit. The *Site Plan* shall include, but shall not be limited to, the following specific details of the proposed floodplain development:

1. The nature, location, dimensions, and elevations of the area of development/disturbance; existing and proposed structures, utility systems, grading/pavement areas, fill materials, storage areas, drainage facilities, and other development;
2. The boundary of the special flood hazard area as delineated on the FIRM or other flood map as determined in this section, or a

statement that the entire lot is within the special flood hazard area;

3. Flood zone(s) designation of the proposed development area as determined on the FIRM or other flood map as determined in Section 18.2-4(B)
4. The boundary of the floodway(s) or non-encroachment area(s) as determined in Section 18.2-4(B);
5. The base flood elevation (BFE) where provided as set forth in Sections 18.2-4(B) or 18.6
6. The old and new location of any watercourse that will be altered or relocated as a result of proposed development;
7. Certification of the plot plan by a registered land surveyor or professional engineer.
8. Proposed elevation, and method thereof, of all development within a Special Flood Hazard Area including but not limited to:
   a) Elevation in relation to mean sea level of the proposed reference level (including basement) of all structures;
   b) Elevation in relation to mean sea level to which any non-residential structure in Zone AE or A will be flood-proofed; and
   c) Elevation in relation to mean sea level to which any proposed utility systems will be elevated or flood-proofed;
9. If flood-proofing, a Flood-proofing Certificate (FEMA Form 81-65) with supporting data and an operational plan that includes, but is not limited to, installation, exercise, and maintenance of flood-proofing measures.

(C) A Foundation Plan, drawn to scale, shall be submitted with the application. The foundation plan shall include details of the proposed foundation system to ensure all provisions of this Ordinance are met. These details include but are not limited to:

1. The proposed method of elevation, if applicable (i.e., fill, solid foundation perimeter wall, solid backfilled foundation, open foundation on columns/posts/piers/piles/shear walls);
2. Openings to facilitate equalization of hydrostatic flood forces on walls in accordance with Section 18.5-10(3), when solid foundation perimeter walls are used in Zones A, AE, and A1-30;

(D)Usage details of any enclosed areas below the regulatory flood protection elevation.

(E) Plans and/or details for the protection of public utilities and facilities such as sewer, gas, electrical, and water systems to be located and constructed to minimize flood damage;

(F) Copies of all other Local, State and Federal permits required prior to floodplain development permit issuance (Wetlands, Endangered Species, Erosion and Sedimentation Control, Riparian Buffers, Mining, etc.)

(G) Documentation for placement of Recreational Vehicles and/or Temporary Structures, when applicable, to ensure Section 18.5-6(B) of this Ordinance are met.

(H) A description of proposed watercourse *alteration* or relocation, when applicable, including an engineering report on the effects of the proposed project on the flood-carrying capacity of the watercourse and the effects to properties located both upstream and downstream; and a map (if not shown on plot plan) showing the location of the proposed watercourse *alteration* or relocation.

7.12-4. Preparation by Professional. *Plat*s, plans, designs, calculations, working drawings, and specifications for work shall be prepared by an authorized professional properly registered and licensed in North Carolina for the work in which they are engaged.

7.12-5. Fees. Fees, as established by Town of Midland, shall be due and payable when the application is submitted.

7.12-6. Submittal of Plans. Applications for floodplain development and certification permits, with all required information, shall be submitted to the *Planning, Zoning and Subdivision Administrator*. All review(s) shall be coordinated by the *Planning, Zoning and Subdivision Administrator*.

7.12-7. Staff Review.

(A) Town staff review. Following submittal of the application and accompanying data, the information shall be reviewed by appropriate Town staff for compliance with the requirements of this Ordinance.

(B*)* Submittal of applications to *Board of Adjustment*. Applications for projects requiring variances as set forth in Article 6 shall initially be heard by the *Technical Review Committee*, as established under this Ordinance, for review and recommendation. The matter shall then be submitted to the *Board of Adjustment* and scheduled for review by the Board at their next available meeting.

7.12-8. Public Notification. Notice of public hearings or public meetings for review of a request for a variance from the requirements of this section shall be provided in accordance with the provisions of set forth in Article 6 for the hearing of a variance request.

7.12-9 Formal Review - Projects Requiring Variances Only.

(A) Review by *Board of Adjustment.* The *Board of Adjustment* shall consider requests for variances as provided for by Article 6.

(B) Timing. Provided the application is complete, the *Board of Adjustment* shall arrive at a decision on a request for a variance within 30 days after its hearing on the request. In granting variances the *Board of Adjustment* may attach appropriate conditions and safeguards which promote the objectives of this Ordinance.

7.12-10 Variances. Variances from the requirements of this section shall be heard by the *Board of Adjustment* as set forth in Article 6.

7.12-11 Appeals. Appeals from decisions of the *Planning, Zoning and Subdivision Administrator* shall be heard by the *Board of Adjustment*. An appeal shall be filed, in writing, within 30 days of the date action is taken by the *Planning, Zoning and Subdivision Administrator*.
Decisions of the *Board of Adjustment* may be appealed to the Superior Court of *Cabarrus* County as provided by Article 6.

7.12-12 Permit Requirements. The Floodplain Development and Certification Permit shall include, but not be limited to:

(A) A description of the development to be permitted under the floodplain development permit.

(B) The Special Flood Hazard Area determination for the proposed development per available data specified in Section 18.2-3(B).

(C) The regulatory flood protection elevation required for the reference level and all attendant utilities.

(D) The regulatory flood protection elevation required for the protection of all public utilities.

(E) All certification submittal requirements with timelines.

(F) A statement that no fill material or other development shall encroach into the floodway or non-encroachment area of any watercourse, as applicable.

(G) The flood openings requirements, if in Zones A, AE, or A1-30.

(H) Limitations of below BFE enclosure uses (if applicable). (i.e., Parking, Building Access and Limited Storage only).

7.12-13 Certification of Floor Elevation/Flood-proofing. When a property is located in a flood hazard area or when a structure is flood proofed, a certificate shall be provided in accordance with the following standards.

(A) Elevation Certificates.

(1) An Elevation Certificate (FEMA Form 81-31) is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of the elevation of the reference level, in relation to mean sea level. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder prior to the beginning of construction. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit.

(2) An Elevation Certificate (FEMA Form 81-31) is required after the reference level is established. Within seven (7) calendar days of establishment of the reference level elevation, it shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of the elevation of the reference level, in relation to mean sea level. Any work done within the seven (7) day calendar period and prior to submission of the certification shall be at the permit holder's risk. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further work being permitted to

proceed. Failure to submit the certification or failure to make required corrections shall be cause to issue a stop work order for the project.

(3) A final as-built Elevation Certificate (FEMA Form 81-31) is required after construction is completed and prior to Certificate of Compliance/Occupancy issuance. It shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of final as-built construction of the elevation of the reference level and all attendant utilities. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to Certificate of Compliance/Occupancy issuance. In some instances, another certification may be required to certify corrected as-built construction. Failure to submit the certification or failure to make required corrections shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

(B) Flood-proofing Certificate. If non-residential flood-proofing is used to meet the regulatory flood protection elevation requirements, a Flood-proofing Certificate (FEMA Form 81-65), with supporting data and an operational plan, is required prior to the actual start of any new construction. It shall be the duty of the permit holder to submit to the *Planning, Zoning and Subdivision Administrator* a certification of the flood-proofed design elevation of the reference level and all attendant utilities, in relation to mean sea level. Flood-proofing certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same. The *Planning, Zoning and Subdivision Administrator* shall review the certificate data and plan. Deficiencies detected by such review shall be corrected by the applicant prior to permit approval. Failure to submit the certification or failure to make required corrections shall be cause to deny a floodplain development permit. Failure to construct in accordance with the certified design shall be cause to withhold the issuance of a Certificate of Compliance/Occupancy.

7.12-14 Permit validity. Permits for construction activity in designated flood hazard areas shall be valid for one year. Failure to initiate construction, or otherwise begin the permitted use, within this time shall render the permit void.

7.12-15 Violations. Violations of the requirements for construction and development activity in designated flood hazard areas shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

Section 7.13 Stormwater discharge permits.

7.13-1 Purpose. To insure that development undertaken in the Town does not result in increased stormwater runoff which adversely impacts adjacent property, no development to which this Ordinance applies, pursuant to the standards set forth in Articles 19 and 20, shall be commenced without the issuance of a stormwater discharge permit by the Stormwater Administrator.

7.13-2 Pre-application Procedure. Although a pre-application conference is not required, applicants are encouraged to contact 1) the Town's *Planning, Zoning and Subdivision Administrator* and 2) the Town's Public Works Administrator prior to submitting their application to discuss the project.

7.13-3 Plan Submittal.

(A) Application required. An application for a stormwater discharge permit shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which a permit is sought. The application shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form supplied by the *Planning, Zoning and Subdivision Administrator,* and signed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application.

(B) Submittal of plan. A minimum of three (3) copies of a complete and detailed stormwater management plan, including detailed design plans and construction specifications, for stormwater management facilities; the exact location of any stormwater management facility; and the proposed location of any access easement(s) shall be submitted to the *Planning, Zoning and Subdivision Administrator*. The stormwater management plan shall be prepared by a registered professional engineer, architect, or landscape architect registered, licensed, or certified pursuant to the North Carolina General Statutes and authorized by law to prepare the analysis, plans, and specifications, and provide the certifications required by the various provisions of this subsection.

(C) Fees. The appropriate stormwater discharge permit application fee, as established by the Town of Midland, shall be due and payable when the application is submitted.

7.13-4 Staff review.

(A) Town Staff review. Upon receipt of the stormwater discharge permit application and stormwater management plan, the appropriate Town staff shall conduct a review of the application and plan to insure that they meet the requirements of this Ordinance.

(B) Review period. The Town staff shall have 30 working days after receipt of a stormwater discharge permit application and stormwater management plan to review the application and plan and notify the

applicant of the status of the review.

(C) Issuance of stormwater permit. Stormwater discharge permits shall be issued in the name of the applicant(s) and no permit shall be transferred or assigned without the written consent of the Town.

7.13-5 Public Notification. No public notification is required for stormwater discharge permit requests and stormwater management plan review.

7.13-6 Formal Review. Formal review of stormwater discharge permit requests and stormwater management plans before a board or commission is not required.

7.13-7 Variances. No variances shall be granted from the requirements that a stormwater discharge permit be obtained and a stormwater management plan be approved prior to initiating any development activity subject to the stormwater management regulations set forth in Articles 19 and 20 of this Ordinance.

7.13-8 Appeals. Appeals from the decisions of the Town staff regarding stormwater discharge permits including, but not limited to, denial, suspension, assessment of civil penalties, revocation and interpretation, shall be made to the Midland Town Council. The Town Council shall conduct a hearing to review the information regarding an appeal in order to make a determination as to whether the requirements set forth in this Ordinance and other applicable regulations have been met. The applicant must submit a written demand for a hearing to the Town Clerk within 30 days following receipt by the applicant of the denial, suspension, revocation, interpretation or other decision of the Town staff from which the appeal is taken. The Town Council shall schedule the hearing for appeal as soon as the Council deems reasonably practicable. At the hearing, the applicant may be represented by an attorney. The Town Council may affirm, modify, or reverse any decision of the Town staff. Appeals from the decisions of the Town Council shall be to the Superior Court of Cabarrus County, shall be in nature of certiorari, and shall be filed with the court within 30 days of the applicant's receipt of the decision of the Town Council.

7.13-9 Permit Validity. When a stormwater discharge permit is issued in association with a project requiring a building permit, the stormwater discharge permit shall expire upon the expiration or revocation of the building permit. When a stormwater discharge permit is issued for a project which does not require a building permit, the stormwater discharge permit shall expire if work is not initiated within 12 months of the date of issuance of the permit or if work stops for a 12-month period.

7.13-10 Violations. Violations of the stormwater management regulations and of any conditions attached to a stormwater discharge permit shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.14 Watershed Permit

7.14-1 Purpose. To ensure that development undertaken in the Town does not adversely impact designated watersheds within the Town, no development to which this Ordinance applies, pursuant to the standards set forth in Article 19, shall be commenced without the issuance of a watershed permit by the *Planning, Zoning and Subdivision Administrator*.

7.14-2 Pre-application Procedure. Although a pre-application conference is not required, applicants are encouraged to contact the Town's *Planning, Zoning and Subdivision Administrator* prior to submitting their application to discuss the project.

7.14-3 Plan Submittal.

(A) Application required. An application for a watershed permit shall be made by, or on behalf of, the owner(s) or developer(s) of the site for which a permit is sought. The application shall be filed with the *Planning, Zoning and Subdivision Administrator* on a form supplied by the *Planning, Zoning and Subdivision Administrator*, and signed by the owner of the property or by an agent specifically authorized by the owner to file such application. Where an agent files the application, the agent shall provide documentation that the owner of the property has authorized the filing of the application.

(B) Submittal of plan. Three copies of complete and detailed plans for the proposed development activity proposed for the property, containing all the information as set forth in Article 19 shall be submitted to the *Planning, Zoning and Subdivision Administrator*. The plan shall be prepared by a registered professional engineer, architect, or landscape architect registered, licensed, or certified pursuant to the North Carolina General Statutes and authorized by law to prepare the analysis, plans, and specifications, and provide the certifications required by the various provisions of this Ordinance.

(C) Fees. The appropriate watershed permit application fee, as established by the Town of Midland, shall be due and payable when the application is submitted.

7.14-4 Review.

(A) *Technical Review Committee* review. Upon receipt of the watershed application and required plan(s), the *Planning, Zoning and Subdivision Administrator* shall review the application and plan(s) to ensure that they are complete and all required information is provided. Provided the application and Plan(s) are complete, the *Planning, Zoning and Subdivision Administrator* shall forward them to the *Technical Review Committee*, who shall conduct a review of the application and plan(s) to ensure that they meet the requirements of the Watershed Protection standards (Article 19) of this Ordinance. Any other review of the proposed development required by this Ordinance shall be conducted as provided for herein.

(B) Review period. The *Technical Review Committee* shall schedule the review of the water shed permit application and plan(s) for its first

available meeting following the receipt of the application and plans. The review shall be conducted as provided for in Article 19 of this Ordinance.

(C) Issuance of watershed permit. Upon review and approval of the watershed permit application and plan(s) by the *Technical Review Committee*, a watershed permit shall be issued for the proposed development.

7.14-5 Public notification. No public notification is required for the review of watershed permit applications and plans.

7.14-6 Formal review. Formal review of stormwater discharge permit requests and stormwater management plans before a board or commission is not required.

7.14-7 Variances.

(A) Minor variances. The *Technical Review Committee* shall review and decide requests for minor variances to the standards and restrictions pertaining to Watershed Protection Overlay Districts in accordance with the procedures set forth in Article 19.

(B) Major Variances. Requests for major variances to the standards and restrictions pertaining to Article 19 (Watershed Protection) shall be to the N.C. Environmental Management Commission (EMC), following review and favorable recommendation by Town Council and after review and recommendation by the *Technical Review Committee* in accordance with the procedure set forth in Article 19. The major variance request shall be forwarded to the EMC with a report containing the findings of fact for Town Council's favorable recommendation, conclusions of law, a recommended decision, recommended conditions and a record of the Council's hearing of the request. Requests for major variances that do not receive a favorable recommendation shall be deemed denied and shall not be forwarded to the EMC.

7.14-8 Appeals. Appeals from a decision of the *Technical Review Committee* with regard to decisions relative to watershed development plans shall be to the Midland Town Council provided that the appeal is made by the applicant within thirty (30) days of the decision. The Town Council shall conduct a hearing to review the information regarding an appeal in order to make a determination as to whether the requirements set forth in this Ordinance and other applicable regulations have been met. The applicant must submit a written demand for a hearing to the Town Clerk within 30 days following receipt by the applicant of the denial, suspension, revocation, interpretation or other decision of the Town staff from which the appeal is taken. The Town Council shall schedule the hearing for appeal as soon as the Council deems reasonably practicable. At the hearing, the applicant may be represented by an attorney. The Town Council may affirm, modify or reverse any decision of the Town staff. Appeals from the decisions of the Town Council shall be to the Superior Court of Cabarrus County, shall be in nature of certiorari, and shall be

filed with the court within 30 days of the applicant's receipt of the decision of the Town Council.

7.14-9 Permit Validity. When a watershed permit is issued in association with a project requiring a building permit, the watershed permit shall expire upon the expiration or revocation of the building permit. When a watershed permit is issued for a project which does not require a building permit, the watershed permit shall expire if work is not initiated within 12 months of the date of issuance of the permit or if work stops for a 12-month period.

7.14-10 Violations. Violations of the watershed protection regulations and of any conditions attached to a watershed permit shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance.

7.15 Zoning Vested Rights Approval.

7.15-1 Purpose. The zoning vested right is a right which is established pursuant to N.C. Gen. Stat. sec. 160A-385.1 to undertake and complete the development and use of property under the terms and conditions of an approved site specific development plan. Upon issuance of a building permit, the expiration provisions of N.C. Gen. Stat. sec. 160A-422 shall apply, except that a building permit shall not expire or be revoked because of the running of time while a zoning vested right under this section 7.15 is outstanding. Obtaining *Site Plan* approval or *Preliminary Plat Subdivision* approval through the vested rights procedure gives the applicant the right to start construction of the development as approved within two years of approval. A vested right is obtained:

(A) automatically when a conditional use permit is granted by virtue of Town Council approval of a conditional use rezoning;

(B) automatically when a conditional use permit is granted by virtue of approval of a conditional use by the appropriate body;

(C) automatically when a *Subdivision Plat* is approved and the *Plat* recorded in accordance with the procedure set forth in this Ordinance ; and,

(D) when the Town Council approves a site specific development plan submitted by a developer in conjunction with an application for a *zoning permit* with vested rights as described below.

7.15-2 Application procedure.

(A) Pre-Application Conference. The applicant for *Site Plan* approval with vested rights shall meet with the *Planning, Zoning and Subdivision Administrator* to inquire about specific zoning requirements and obtain the proper application forms. The applicant and the *Planning, Zoning and Subdivision Administrator*

shall discuss the *Site Plan* review process and applicable meetings and deadlines. In addition, the *Planning, Zoning and Subdivision Administrator* shall advise the applicant of the specific requirements the project needs to address and discuss other aspects of the vested rights procedure.

(B) Plan submittal.

1. Filing of application. In order to apply for *Site Plan* review under the vested rights procedure, the applicant must indicate his/her intent to obtain vested rights in the form of a letter to the *Planning, Zoning and Subdivision Administrator*. The letter shall include the property address, County Tax Office parcel identification number, name of the property owner, and any other pertinent information.
2. *Site Plan* required. *Site Plan*s prepared in accordance with the standards set forth by this Ordinance shall be submitted when applying for vested rights. The standards for the *Site Plan* to be submitted depend upon the particular review process and are specified in the procedure section for the particular review process.
3. Fees. An application fee as established by the Town of Midland shall be submitted with the application.

7.15-3. Staff review. The *Planning, Zoning and Subdivision Administrator* shall review the application and accompanying *Site Plan*(s) for compliance with the requirements of this Ordinance and other applicable regulations. After review and approval through the appropriate staff level review process, the request for vested rights will be scheduled for a public hearing before the Midland Town Council. The public hearing will be scheduled as provided by the Town Council's rules of procedure.

7.15-4 Public notification. Notice of public hearings or public meetings required under this section for zoning vested rights approval shall be provided in accordance with the provisions of the North Carolina General Statutes.

7.15-5 Formal review. Requests for vested rights for *Site Plan*s shall be scheduled for review at the next regular meeting of the Midland Town Council following approval by staff and/or the applicable advisory boards. At this time, the Town Council shall hold a public hearing to review the *Site Plan* and evaluate its conformance with the requirements of this Ordinance and other applicable requirements of the Town of Midland. In considering an application for *Site Plan* approval with vested rights, the Town Council shall give due regard to whether issuance of the permit would serve the purpose and intent of this Ordinance, secure public safety and welfare, and do substantial justice. If the Council should find, after public hearing, that the proposed permit should not be granted, the permit should be denied. If the Town Council finds that the request meets the requirements stated above, it then shall take one of the following actions:

(A) Approve the *Site Plan* with vested rights request. The *Planning, Zoning and Subdivision Administrator* is then directed to issue a

vested rights *zoning permit*.

(B) Approve the *Site Plan* with vested rights request subject to conditions which are necessary to protect the public health, safety, and welfare. The *Planning, Zoning and Subdivision Administrator* is then directed to issue the vested rights *zoning permit* subject to the changes in the *Site Plan* to be made by the developer.

(C) Table the *Site Plan* with vested rights request pending the submittal of additional information.

7.15-6 Findings. In granting a *zoning permit* with vested rights the Town Council shall make the following affirmative findings:

(A) The use requested is among those permitted in the district in which the property is located and complies with all the requirements of this and other applicable Ordinance s;

(B) The requested permit is either essential or desirable for the public convenience or welfare;

(C) The requested permit will not impair the integrity or character of the surrounding or adjoining districts and will not be detrimental to the health, safety, or welfare of the community; and

(D) Adequate utilities, access roads, drainage, sanitation an/or other necessary facilities have been or are being provided.

7.15-7 Additional Restrictions and Requirements. In granting a *zoning permit* with vested rights, the Town Council may impose such additional restrictions and requirements upon the permit as it may deem necessary in order that the purpose and intent of this Ordinance are served, public welfare secured and substantial justice done. Approval of a site specific development plan with the condition that a variance or modification be obtained shall not confer a vested right unless and until the necessary variance or modification is obtained. If all requirements and conditions are accepted by the applicant, the Town Council shall authorize the issuance of the permit; otherwise the permit shall be denied. Any permit so authorized shall remain vested for two years from the date of the action granting the permit. No change or amendment to any *zoning permit* with vested rights shall be made except after public hearing and except as provided for in this Ordinance for the original issuance of such permit. If, at the time of consideration of a proposed change or amendment to an existing permit, the permit or proposed change or amendment could not be lawfully made under Ordinance conditions existing at that time, the proposed change or amendment shall be denied. In addition, in no case shall there be an extension of the two-year time period for which the development right is vested. Nothing herein shall exempt plans related to the permit from subsequent reviews and approvals to ensure compliance with the terms and conditions of the original approval, provided that such reviews and approvals are not inconsistent with the original approvals.

7.15-8 Variances. Variances from the procedures and requirements for obtaining vested rights as set forth in section 7.15 of this Ordinance shall not be permitted. Requests for variances from the development standards established by this Ordinance shall be heard by the *Board of Adjustment* under the procedures established by Article 6 of this Ordinance.

7.15-9 Appeals. Aggrieved parties may seek appropriate relief as allowed by law.

7.15-10 Permit validity. A zoning right that has been vested as provided in section 7.15 shall remain vested for a period of two years from the date the permit is issued. This vesting shall not be extended by any amendments or modifications to a site specific development plan unless expressly provided by the approving authority at the time the amendment or modification is approved. A *zoning permit*, conditional use permit, or *Subdivision* approval shall not expire or be revoked because of the running of time while a zoning vested right under this section is outstanding. A vested right shall terminate under the termination conditions as specified in subsection 7.15-7 of this Ordinance.

7.15-11 Violations. Violations of the terms and/or conditions of the vested rights approval shall be considered a violation of this Ordinance and shall be subject to the enforcement and penalty provisions set forth in Article 23 of this Ordinance. In addition, the Town Council may, after public hearing, revoke any such vested rights for failure to abide by any such term or condition.

7.15-12 Status at Expiration of Term. A right which has been vested shall terminate at the end of the two-year vesting period with respect to buildings and uses for which no valid building permit applications have been filed. Upon issuance of a building permit, the provisions of G.S. 160A-418 and G.S. 160A-422 shall apply except that a building permit shall not expire or be revoked because of the running of time while a vested right under this Article is outstanding. Any development constructed pursuant to a *zoning permit* with vested rights for which the vested term has expired and which is not in conformance with all the terms of the Ordinance because of changes made in the provisions of this Ordinance, including the zoning map, after the issuance of the permit shall be subject to the provisions of this Ordinance relating to non-conformities the same as any other nonconformity.

7.15-13 Annexation Declaration. Any landowner who signs an annexation petition to the Town pursuant to G.S. 160A-31 or G.S. 160A-58.1 shall, as part of that petition, file a signed statement declaring whether or not vested rights with respect to the property subject to the petition have been established under G.S. 160A-385.1 or G.S. 153A-344.1. If the statement declares that such rights have been established, the Town may require petitioners to provide proof of such rights. A statement which declares that no vested rights have been established by law shall be binding on the landowner and any

such vested right shall be terminated.

7.16. Notices and Public Hearings

7.16-1 General notice requirements.

(A) All notices which this chapter requires for public hearings or public meetings shall identify the date, time and place of the public hearing/public meeting and the nature and character of the proposed action. Where the action being taken concerns a particular property or properties, the notice shall also identify the location of the subject property.

(B) Where specific notice requirements are set forth in the North Carolina General Statutes for a particular type of public hearing, the requirements set forth in the North Carolina General Statutes shall be followed. Where these requirements conflict with procedures as stipulated in this subsection or elsewhere in this chapter, the requirements contained in the North Carolina General Statutes will control.

7.16-2. Notice procedure. The following guidelines detail the notification procedure to be followed for public hearings or public meetings required by this chapter unless otherwise set forth in this chapter. Failure to follow procedures set forth in this section, other than those required by the North Carolina General Statutes, shall not affect the validity of any action taken at a public hearing or public meeting.

(A) Published notice. Notice for public meetings or public hearings required by this chapter shall be published in a newspaper of general circulation no later than ten days prior to the date on which the application is to be considered.

(B) Mailed notice. First class mailed notice for public meetings or public hearings required by this chapter shall be provided to owners of all properties located within 500 feet of the subject property as said owners are shown on the County tax listings. Such notice shall be mailed no later than ten days before the scheduled date of the hearing.

(C) Posted notice. A sign (or signs) providing information concerning a public hearing or public meeting required by this chapter will be posted on property which is the subject of said hearing/meeting no later than ten days before the date on which the hearing or meeting is to occur. The sign(s) shall be prominently placed on the subject parcel or on an adjacent public street or highway right-of-way. When multiple parcels are involved, a posting on each individual parcel is not required, but the Town shall post sufficient notices to provide reasonable notice to interested persons.

7.16-3 Special notice requirements for telecommunications towers/structures. For any public hearing for conditional use applications for telecommunication towers and concealed telecommunication support

structures, as required by section 10.2-14 hereinafter, additional notice and public hearing requirements shall be provided as set forth in section 10.2-14 of this chapter.